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14
15 **UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

16 HENRY'S BULLFROG BEES, a California
17 apairy; GOLDEN PRAIRIE HONEY
18 FARMS CORPORATION, d/b/a VALOR
HONEY, a Kansas not for profit corporation;
19 and KELVIN ADEE, an individual, on
behalf of themselves, all others similarly
20 situated, and the general public,
Plaintiffs,

21 v.
22

23 SUNLAND TRADING, INC.; LAMEX
24 FOODS, INC.; ODEM INTERNATIONAL
INC.; BARKMAN HONEY, LLC; DUTCH
GOLD HONEY, INC.; TRUE SOURCE
25 HONEY, LLC; INTERTEK FOOD
SERVICES GMBH; and NSF
INTERNATIONAL,
Defendants.

26 Case No.: 2:21-CV-00582-TLN-CKD

27 **SECOND AMENDED CLASS ACTION
COMPLAINT FOR UNJUST
ENRICHMENT AND VIOLATIONS OF:**

- 1. THE RACKETEER INFLUENCED
AND CORRUPT PRACTICES ACT;**
- 2. THE SHERMAN ANTITRUST ACT;**
- 3. THE CALIFORNIA CARTWRIGHT
ACT; AND**
- 4. THE CALIFORNIA UNFAIR
COMPETITION LAW.**

28 **JURY TRIAL DEMANDED**

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1 Plaintiffs Henry's Bullfrog Bees ("Bullfrog Bees"), Golden Prairie Honey Farms Corp
2 d/b/a Valor Honey ("Valor Honey"), and Kelvin Adee as co-owner of Adee Honey Farms
3 ("Adee") (collectively "Plaintiffs"), by and through their undersigned counsel, bring this
4 Class Action Complaint, individually and on behalf of others similarly situated and the
5 general public, against the following defendants:

6 (A) the Importer Defendants: Sunland Trading, Inc. ("Sunland");
7 Lamex Foods, Inc. ("Lamex"); and Odem International Inc. ("Odem");

8 (B) the Packer Defendants: Barkman Honey LLC ("Barkman") and
9 Dutch Gold Honey, Inc. ("Dutch Gold"); and

10 (C) the Certifier Defendants: True Source Honey LLC ("True Source"),
11 Intertek Food Services GmbH ("Intertek"), and NSF International ("NSF").

12 Based on their own personal knowledge, or upon information and belief, including the
13 investigation of their counsel, Plaintiffs allege as follows:

14 INTRODUCTION

15 1. The Importer and Packer Defendants are some of the largest honey importers
16 and packers in the United States, while Certifier Defendant True Source holds itself out as a
17 honey industry watchdog. For years, Defendants have participated in a worldwide conspiracy
18 to defraud the United States honey market by knowingly and intentionally flooding it with
19 fake honey that is adulterated, impure, or mislabeled, which True Source knowingly and
20 intentionally falsely certifies as genuine. Indeed, an accredited food testing laboratory has
21 revealed widespread use of extraneous, non-honey syrups in products labeled as True Source
22 certified "honey" sold by Defendants in the United States during the Class Period,¹
23 specifically Defendants Barkman and Odem.

24 2. Plaintiffs are commercial beekeeping farms in the business of selling genuine
25 honey. Defendants' wrongful conduct has suppressed prices in the domestic honey market,
26 making it difficult or impossible for domestic commercial beekeeping farms like Plaintiffs to
27

28 ¹ "Class Period" means since March 29, 2017.

1 compete. As a direct consequence of Defendants' wrongful conduct, Plaintiffs and other Class
2 Members have effectively been blocked from selling their honey in the marketplace, suffering
3 lost sales and profits as a result.

4 3. Plaintiffs bring this action on their own behalf, on behalf of a Class of domestic
5 commercial beekeepers, and on behalf of the general public, to recover compensation for
6 injuries to their businesses and property caused by Defendants' knowing involvement and
7 participation in the scheme in violation of the Racketeer Influenced and Corrupt
8 Organizations Act, 18 U.S.C. §§ 1961, *et seq.* ("RICO"), the Sherman Antitrust Act, 15
9 U.S.C. § 1, and California's Cartwright Act, Cal Bus. & Prof. Code § 16720, and Unfair
0 Competition Law, *id.* §§ 17200, *et seq.* (the "UCL"), and to enjoin Defendants' wrongful
1 conduct.

THE PARTIES

The Plaintiffs

4 4. Plaintiff Henry's Bullfrog Bees, a sole proprietorship, is an apiary located in
5 Winters, California, which is engaged in the business of selling honey. Henry's Bullfrog Bees
6 has approximately 7,600 hives.

7 5. Plaintiff Golden Prairie Honey Farms Corp d/b/a Valor Honey (“Valor Honey”)
8 (previously, SAVE Golden Prairie Honey Farms, LLC) is a not-for-profit honey production
9 and beekeeping supply business located in Manhattan, Kansas. Valor Honey was once part
10 of the Servicemember Agricultural Vocation Education (SAVE) Farm program, and is a
11 501(c)(3) non-profit, charitable, and educational corporation whose mission is to train
12 veterans and transitioning service members as a way of helping many overcome
13 psychological challenges reintegrating into civilian society after war. Valor Honey has
14 approximately 500 beehives and maintains its own apiaries where it teaches hands-on
15 beekeeping and harvesting of honey. Valor Honey packs the honey it produces, along with
16 honey it purchases from other local beekeepers, for retail sale. All proceeds from the sale of
17 Valor Honey’s honey goes back into its training programs. Each winter, Valor Honey sends
18 its beehives to California for the annual almond pollination season.

1 6. Plaintiff Kelvin Adee is a citizen of South Dakota and co-owner of Adee Honey
2 Farms (“Adee”), the country’s largest domestic commercial beekeeping farm, with over
3 80,000 hives. Adee Honey Farms has operations throughout the United States, including in
4 Woodville, Mississippi and Arvin, California. Established as a honey production farm in the
5 early 1940’s, Adee Honey Farms began sending bees to California in 1990 for the annual
6 almond pollination season, shipping truckloads of honeybees across the nation every year.
7 The farm still follows this migratory pattern, keeping the bees in the Midwest during the
8 summer for honey production, and sending them to California in the fall to spend the winter,
9 until the almonds bloom for pollination.

10 **The Importer Defendants**

11 7. Defendant Sunland is a wholesale honey import company with its principal place
12 of business in New Canaan, Connecticut. Sunland purchases purported honey from foreign
13 exporters and distributes it to packers and other entities throughout the United States,
14 including in California. The honey purchased by Sunland from India, Vietnam, and Thailand
15 contains extraneous syrups and/or is processed with resin technology which changes the
16 honey’s fundamental composition. Sunland is aware its honey is fake. President Nicholas
17 Sargeantson admitted in January 2010 that there is no white or extra light amber honey that
18 originates from India, Vietnam, or Thailand, yet Sunland continues to import such “honey”
19 from those countries and has done so during the Class Period.

20 8. Defendant Lamex is a wholesale honey import company with its principal place
21 of business in Minneapolis, Minnesota. Lamex purchases purported honey from foreign
22 exporters and distributes it to packers and other entities throughout the United States,
23 including in California. The honey purchased by Lamex from India, Vietnam, and Thailand
24 contains extraneous syrups and/or is processed with resin technology which changes the
25 honey’s fundamental composition. Lamex continues to import such “honey” from those
26 countries and has done so during the Class Period.

27 9. Defendant Odem is a wholesale honey import company with its principal place
28 of business in Rosemere, Quebec, Canada. Odem purchases purported honey from foreign

1 exporters and distributes it to packers and other entities throughout the United States,
2 including in California. The honey purchased by Lamex from India, Vietnam, and Thailand
3 contains extraneous syrups and/or is processed with resin technology which changes the
4 honey's fundamental composition. Defendant Barkman tested the honey it purchased from
5 Odem in June 2018 using an accredited food testing laboratory and determined that 24
6 samples originating from India all tested positive for adulteration with added sugar syrup.
7 Despite awareness that its honey is fake, Odem sold its honey to Barkman, which ultimately
8 brought it into the United States honey market during the Class Period.

9 **The Packer Defendants**

10 10. Defendant Barkman is a honey packing company with its principal place of
11 business in either Wichita or Hillsboro, Kansas. Barkman sells its honey to retailers
12 throughout the United States, including in California. Despite learning the honey it has
13 purchased from Odem is adulterated with added sugar syrup, Barkman has continued to sell
14 that adulterated honey (which it purchases from Odem) to purchasers in the United States
15 during the Class Period.

16 11. Defendant Dutch Gold is a honey packing company with its principal place of
17 business in Lancaster, Pennsylvania. Dutch Gold sells its honey to retailers throughout the
18 United States, including in California. In 2020, Dutch Gold "honey" from Vietnam and India
19 was tested by an accredited laboratory and found to contain extraneous non-honey syrups,
20 meaning it is adulterated, fake honey.

21 **The Certifier Defendants**

22 12. Defendant True Source is a trade organization with its principal place of business
23 in Washington, D.C. True Source's Board of Directors is comprised of the following
24 individuals:

- 25 a. Eric Wenger, Barkman Honey, LLC – Chair
26 b. Prakash Kejriwal, Kejriwal Group, India – Vice Chair
27 c. Jill Clark, Dutch Gold Honey, Inc. – Treasurer
28 d. Michelle Poulk, Burleson's, Inc. – Secretary

- 1 e. Tim Hiatt, Hiatt Honey Company
- 2 f. Nicholas Sargeantson, Sunland International – Executive Member
- 3 g. Chris Olney, HoneyTree, Inc.
- 4 h. Greg Mohr, Bee Maid Honey, Canada
- 5 i. Normand Bernier, Odem International, Canada
- 6 j. Javier Nascel, NEXCO S. A., Argentina
- 7 k. Nguyen Thi Hang, HANOIBEE JSC., Vietnam
- 8 l. Gordon Marks – Executive Director

9 13. Defendant Intertek Food Services GmbH is a food testing laboratory with its
10 principal place of business in Bremen, Germany. Intertek tests honey that, after making its
11 way through the stream of commerce, is ultimately sold to packers, retailers, and consumers
12 in California. Intertek is owned by Intertek Group PLC. Rather than engaging in legitimate
13 testing for honey authenticity, Intertek provides the results requested by its clients, including
14 the Packer Defendants, with little to no analysis. Rather than providing its customers with
15 underlying data of the test results, Intertek simply reports that the honey is not adulterated.

16 14. Defendant NSF International is an auditing organization with its principal place
17 of business in Ann Arbor, Michigan. NSF audits honey that, after making its way through the
18 stream of commerce, is ultimately sold to packers, retailers, and consumers in California.
19 NSF accepts bribes from True Source Certified exporters and packers to conduct sham,
20 cursory audits.

JURISDICTION AND VENUE

21 15. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
22 §§ 1331 and 1337(a), because Plaintiffs' claims under 15 U.S.C. § 1 (the Sherman Act), and
23 18 U.S.C. § 1964 (RICO) raise federal questions; and the Court has supplemental jurisdiction
24 over Plaintiffs' claims under California state law.

25 16. This Court has personal jurisdiction over Defendants because Defendants have
26 substantial contacts with this District.

27 17. Venue is proper in this District pursuant to 28 U.S.C. §§ 1331(b) and (c) because

1 Defendants are subject to the Court's personal jurisdiction herein. Furthermore, the acts
2 giving rise to Plaintiffs' claims occurred, among other places, in this District.

3 **FACTUAL ALLEGATIONS**

4 **I. THE PRODUCTION AND STANDARD OF IDENTITY OF GENUINE HONEY**

5 18. Genuine honey is the natural sweet substance produced by species within the
6 *Apis* genus from the nectar of plants or from secretions of living parts of plants or excretions
7 of plant-sucking insects on the living parts of plants which bees collect, transform by
8 combining with specific substances of their own, deposit, dehydrate, store, and leave in the
9 honeycomb to ripen.

10 19. Genuine honey consists primarily of simple sugars, predominantly fructose and
11 glucose, as well as other substances such as organic acids, enzymes, and solid particles
12 derived from nectar collection by bees, including pollen. The color of genuine honey varies
13 from nearly colorless to dark brown. The consistency can be fluid, viscous, or partially- to
14 entirely-crystallized. These parameters are dependent upon the botanical origin of the honey,
15 processing, specific composition, storage temperature, and related factors. Genuine honey
16 eventually crystallizes naturally. The flavor and aroma of genuine honey are variable, mainly
17 depending on its botanical origin.

18 20. Nectar or honeydew collected by bees must undergo a series of complicated
19 processes for it to be transformed into genuine honey. This transformation occurs in the
20 beehive, and results in the production of a stable food source for bees that is suitable for long-
21 term storage in the hive. Transformation of nectar or honeydew into genuine honey requires
22 a certain amount of time, and the process is referred to as ripening.

23 21. The maturation of genuine honey starts with the uptake of nectar or honeydew
24 in the honey bees' stomach while the foraging bees collect their load of nectar in the field and
25 during their return flight. Honey maturation is inseparable from the drying process and
26 involves the addition of enzymes and other bee substances, the lowering of pH through the
27 production of acids in the bee stomach, and the transformation of nectar or honeydew
28 substances. A considerable microbial population exists at the initial stages of the maturation

1 process that can be involved in some of these transformations, such as the biosynthesis of
2 carbohydrates.

3 22. The transformation of nectar into genuine honey is the result of thousands of
4 years of evolution by bees to achieve a long-term provision of food for their own use when
5 there is no nectar flow from the surroundings of the colony. The reduced water content,
6 elevated concentration of sugars, the low pH, and the presence of different antimicrobial
7 substances, make genuine honey a non-fermentable and long-lasting food for bees.

8 23. During the ripening process, bees also add enzymes including invertase, which
9 helps to convert sucrose into the more stable simple sugars, glucose, and fructose; and glucose
10 oxidase, which is essential for production of gluconic acid and hydrogen peroxide, which
11 prevent fermentation. As nectar is passed from bee to bee, more enzymes are added and more
12 water is evaporated. The allocation and relocation of the content of many cells before final
13 storage is an important part of the ripening process, and it needs sufficient space in the beehive
14 for its normal occurrence.

15 24. During this time, there are both passive and active mechanisms through which
16 nectar dehydrates. Active dehydration occurs during “tongue lashing” behavior, when worker
17 bees concentrate droplets of regurgitated nectar with movements of their mouthparts. Passive
18 concentration occurs, by contrast, through direct evaporation of nectar stored in cells. As the
19 nectar is dehydrated, the absolute sugar concentration rises rendering the ripening honey
20 increasingly hygroscopic.

21 25. Bees protect the mature product by sealing off cells filled with honey with a lid
22 of wax. The ripening process concludes when capping has already started. The process of
23 drying normally continues until the honey contains less than 18% water. Drying of honey
24 requires ample space in the hive. During an abundant honey flow, the “honey hoarding”
25 instinct of the bees increases if a storage space in the hive is plentiful. The time that bees need
26 to ripen and cap honey varies greatly depending on climate conditions and the strength of the
27 honey flow. Sufficient time in the hive and multiple manipulations by bees are thus necessary
28 for the transformation of nectar into genuine honey. On average, a hive will produce about

1 65 pounds of surplus honey each year.

2 26. Because of the unique process by which genuine honey is made, it possesses
3 uniquely desirable properties not present in fake honey products or other sweeteners.

4 27. The Codex Alimentarius (1981), issued by the Food and Agriculture
5 Organization of the United Nations, is the internationally-accepted standard for the identity
6 of foodstuffs. Based on the process described above, the Codex defines genuine honey as “the
7 natural sweet substance produced by honey bees from the nectar of plants or from secretions
8 of living parts of plants or excretions of plant sucking insects on the living parts of plants,
9 which the bees collect, transform by combining with specific substances of their own, deposit,
10 dehydrate, store and leave in the honey comb to ripen and mature,” and states that genuine
11 honey “shall not have added to it any food ingredient, including food additives, nor . . . any
12 other additions . . . than honey.”²

13 28. The Codex definition has been accepted by Apimondia, the International
14 Federation of Beekeepers’ Associations founded in 1897;³ the United States Department of
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25 ² Codex Alimentarius (1981), Codex Standard for Honey, *available* at
26 www.fao.org/input/download/standards/310/cxs_012e.pdf.

27 ³Apimondia Statement on Honey Fraud (January 2020), *available* at
28 <https://www.apimondia.org/latest/honey-a-natural-product> (quoting Codex Alimentarius
(1981)).

1 Agriculture;⁴ and the Food and Drug Administration (“FDA”).⁵ In 2020, the United States
 2 Pharmacopeia also proposed a new FCC Identity Standard that tracks this same definition,
 3 which was published in the Food Chemicals Codex in December 2021.

4 29. True Source Certified Standards similarly define honey as “the natural sweet
 5 substance produced by honey bees from the nectar of plants or from secretions of living parts
 6 of plants or excretions of plant sucking insects on the living parts of plants, which the bees
 7 collect, transform by combining with specific substances of their own, deposit, dehydrate,
 8 store and leave in the honey comb to ripen and mature. Honey may not contain, or be
 9 combined with foreign sugars and maintain the designation Honey” The True Source
 10 Certified Standards also prohibit “using materials that change the fundamental composition
 11 of honey during collection, processing or packing,” including “resin processing equipment”

13 ⁴*See* USDA Commercial Item Description: Honey § 6.1.1 (“CID”), available at
 14 https://www.ams.usda.gov/sites/default/files/media/AA20380_Honey.pdf (Describing the
 15 “salient characteristics” of honey as “a sweet, syrupy substance produced by honey bees from
 16 the nectar of plants or from secretions of living parts of plants or excretions of plant-sucking
 17 insects on the living part of plants, which the bees collect, transform by combining with
 18 specified substances of their own, deposit, dehydrate, store, and leave in the honeycombs to
 19 ripen and mature.”); *see also id.* at 11-12 (a product bearing the “honey” CID “must specify”
 the “[a]nalytical and authenticity tests to be performed,” “[w]hen analytical requirements are
 different than specified,” and “[w]hen emerging analytical methods for economic adulteration
 [and residues] are to be performed”).

20 ⁵ *See* Guidance for Industry: Proper Labeling of Honey and Honey Products at 4 (March
 21 2018), available at <https://www.fda.gov/regulatory-information/search-fda-guidance->
 22 documents/guidance-industry-proper-labeling-honey-and-honey-products (citing CODEX
 23 Standard for Honey CODEX STAN 12-1981 and stating, “FDA has concluded that this
 24 definition accurately reflects the common usage of the term ‘honey.’”); *see also id.* (“a food
 25 is adulterated if: (1) a valuable constituent has been omitted in whole or in part from a food;
 26 (2) if any substance has been substituted wholly or in part; (3) if damage or inferiority has
 27 been concealed in any manner; or (4) if a substance has been added to a food so as to increase
 28 its bulk or weight, reduce its quality or strength, or make it appear to be better or of greater
 value than it is.”); *id.* at 10 (“FDA monitor[s] imported products labeled as honey to ensure
 that they contain only honey as the sole ingredient[]” through “a long-standing import alert
 for surveillance of honey for adulteration with cane or corn sugars” (citing Import Alert 36-
 01 at https://www.accessdata.fda.gov/cms_ia/importalert_108.html)).

1 and “evaporation of moisture in honey.”⁶

2 **II. THE UNITED STATES’ HONEY MARKET SUFFERS FROM**
 3 **ECONOMICALLY-MOTIVATED ADULTERATION**

4 Honey is popular in the United States, with annual sales of over \$8 billion, and
 5 annual consumption of over 1.5 pounds per person, which has doubled since the 1990s.

6 31. The United States honey market includes beekeepers, like Plaintiffs Bullfrog
 7 Bees, Valor Honey, and Adee; honey importers, like Defendants Sunland and Lamex; honey
 8 packers, like Defendants Barkman and Dutch Gold; and honey certifiers, like Defendants
 9 True Source, Intertek, and NSF.

10 32. Packers purchase honey directly from domestic beekeepers, or purchase honey
 11 from importers, who purchase it from foreign producers. Packers then package and distribute
 12 honey to retailers under various brand names.

13 33. Over the last several years, global production of honey has been steadily
 14 decreasing, including in the United States. While the number of hives has remained relatively
 15 stable, their yield has dropped drastically due to a variety of factors, including climate change,
 16 natural disasters, neonicotinoids, pesticides, mites, colony collapse disorder, reduction of
 17 acreage for forage, monodiets, stress, and environmental pollution. For example, while the
 18 number of beehives increased about 8% between 2007 and 2014, the average honey yield
 19 declined by 37%.

20 34. Despite significant reductions in hive yield and productivity, however, honey
 21 exports, imports, and total supply have increased over the same time.

22 35. Economically-motivated adulteration is the fraudulent, intentional substitution
 23 or addition of a substance to a product for the purpose of increasing its apparent value or
 24 reducing its cost of production for economic gain.

25
 26
 27 ⁶ See True Source Certified Standards V6.1 at pp. 9, 17, 22 (Jan. 1, 2021), available at
 28 <https://truesourcehoney.com/true-source-certified/standards-2021-01-01.pdf> [“2021 True
 Source Standards”].

1 36. Given the high and continually-growing consumer demand for genuine honey,
 2 and simultaneous decline in supply of genuine bee-made honey, there is strong economic
 3 motivation for firms to produce and pass-off as genuine honey non-honey syrups known as
 4 “honey product.”⁷ Honey product is, essentially, “fake honey” and will be referred to
 5 throughout this Complaint as “fake honey.”

6 37. Despite what should be a clear seller’s market as a result of declining yield,
 7 domestic commercial beekeepers that produce genuine bee-made honey, like Plaintiffs, are
 8 unable to sell their genuine honey at all, or must sell it at a substantial loss, due to the
 9 increased competition from cheaper, imported fake honey.

10 38. Over the past ten years, global honey imports increased by about 34%, from
 11 about 550,000 tons in 2010, to about 730,000 tons in 2019. During this period, the 10 main
 12 honey-exporting countries in the Americas (Argentina, Brazil, Canada, Mexico, Chile,
 13 Uruguay, Cuba, El Salvador, Guatemala, and Nicaragua) increased their total honey exports
 14 by only 6.5%, while the 10 main honey-exporting countries in the Eastern Hemisphere
 15 (China, India, Ukraine, Vietnam, Thailand, Turkey, Pakistan, the Russian Federation,
 16 Taiwan, and Myanmar) increased their total honey exports by 95.8%.⁸

17 39. Another report indicates that from 2007 to 2014, honey exports from China,
 18 India, Ukraine, Turkey, Taiwan, Thailand, and Vietnam increased 196% despite the number
 19 of beehives in those countries increasing only 13%.⁹

21 ⁷ “Honey product” was defined in 1996, and again in 2003, to refer to products that “do not
 22 meet the compositional criteria for honey; but are products consisting in whole or in part of
 23 honey.” National Honey Board, “Definition of Honey and Honey Products,” available at
<https://www.bjcp.org/mead/honeydefs.pdf>.

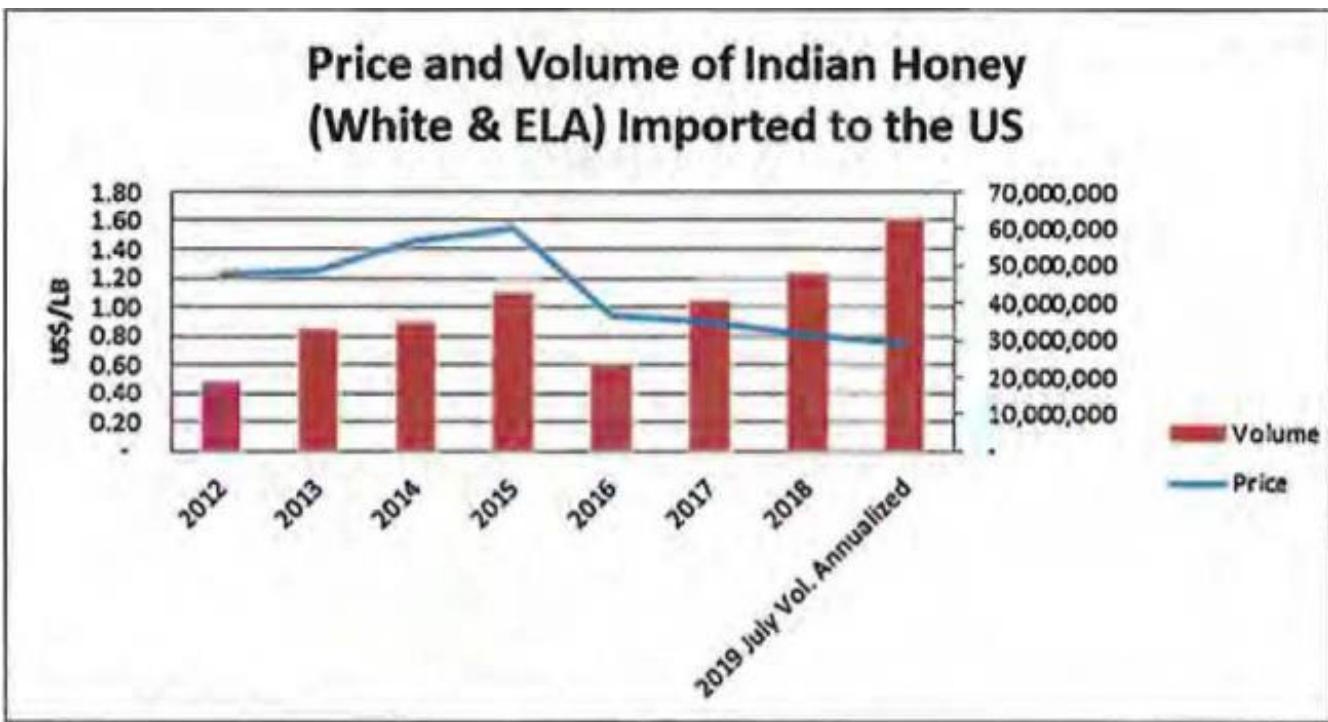
24 ⁸ Evaluation of the Direct Economic Impact of Decreasing Prices of Honey on the Main
 25 Honey Export Countries of the Americas. Apimondia, available at
https://www.apimondia.org/uploads/7/6/4/3/76436993/decreasing_prices_honey_americas.pdf.

27 ⁹ García N., A study of the causes of falling honey prices in the international market, Am.
 28 Bee J., 877-882 (2016).

1 40. The increased production of honey abroad is not due to an increase in the number
 2 of hives. Rather, these countries have flooded the market with low-priced and low-quality
 3 products exported under the name of “honey,” but which are not genuine honey. As a result,
 4 the global honey market, including the United States’ honey market, suffers from widespread
 5 economically-motivated adulteration.

6 41. There are several indicia of this adulteration. First, there is more honey being
 7 sold each year than existing bee populations can produce.

8 42. Second, the global market is seeing increases of honey production from areas in
 9 which it is not possible. For example, although India does not have the climate or the floral
 10 sources to produce large volumes of white and extra light amber honey, its exports of these
 11 high-demand, premium honeys have steadily increased in recent years.

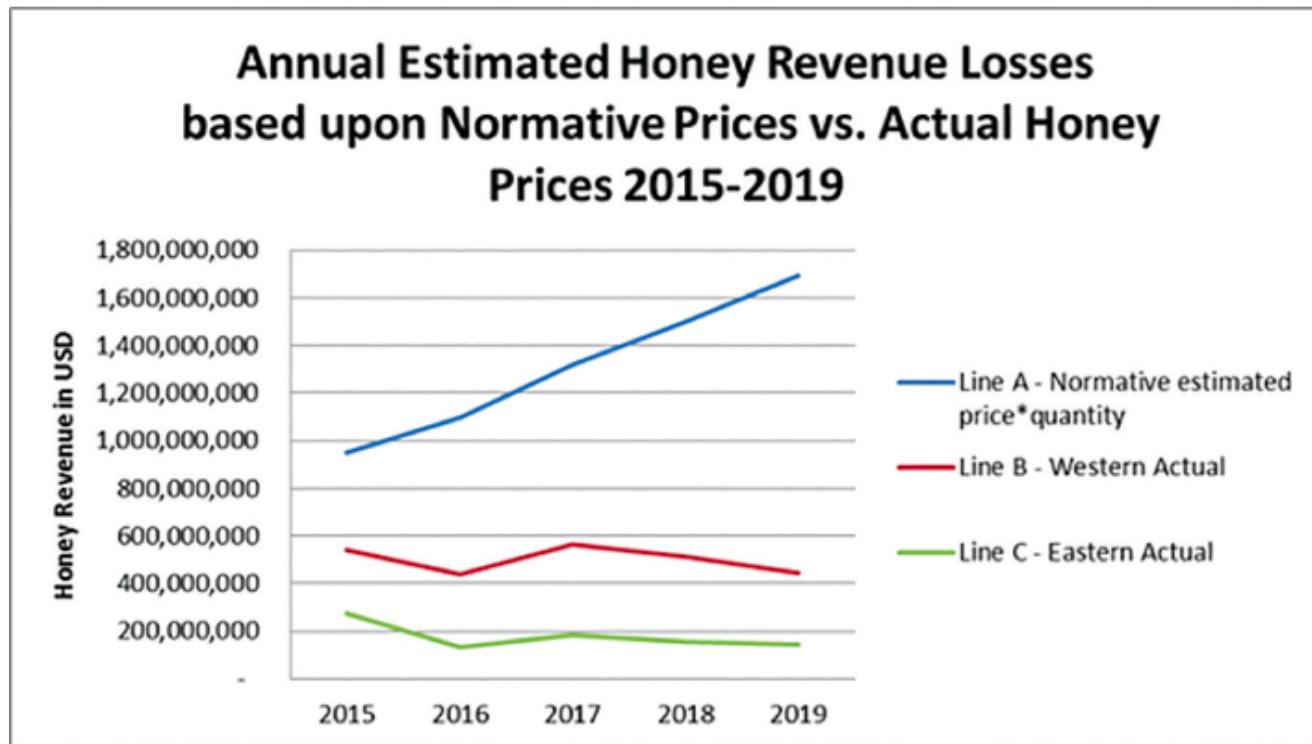


24 Nor does India have clover fields; yet exporters purport to sell Indian “clover honey,”
 25 although it cannot possibly be authentic.

26 43. Third, testing by a variety of entities, including the European Commission and
 27 Canadian government, show that much of the honey on retail shelves is not genuine honey.
 28 The European Commission’s testing and analysis, for example, showed that, of 2,264 honeys

tested, only 39.4% were compliant with the Apimondia standard of identity.

44. Fourth, although the cost of genuine honey production has substantially increased due to the added cost of preserving bee populations and overcoming colony losses, so that economics theory suggests a higher market price, honey prices have actually decreased.



45. According to the Apimondia's January 2020 Statement on Honey Fraud, honey is the third-most adulterated food in the world.¹⁰ One expert recently estimated that as much as 50% of honey in the market is not genuine.¹¹

46. Temptations for honey adulterators have increased in recent years because of the higher prices of genuine honey compared to fake honey, and the obsolescence of official methods to detect instances of fraud. The policing of fraud in relation to honey is challenging and infrequent, making the opportunity attractive to those who wish to commit fraud. Some examples of common modes of production and processing that violate the Codex and result

¹⁰ Apimondia Statement on Honey Fraud.

¹¹ Ron Phipps, International Honey Market Report, Am. Bee J. (June 2020).

in an adulterated, fake honey are as follows:

Table 1.

PRACTICE	HOW IT COMPROMISES THE INTEGRITY OF GENUINE HONEY
Harvesting of immature honey as a systematic and purposeful mode of production.	Bees have insufficient time to mature honey and add specific substances of their own by multiple manipulations. As such, the transformation of nectar into genuine honey is never completed and thus, the product cannot be called honey, and is, as described in the Complaint, “fake honey.”
Artificial feeding of bees during a nectar flow, or in place of nectar flow.	Genuine honey should only be produced by bees from the nectar of plants or from secretions of living parts of plants or excretions of plant-sucking insects on the living parts of plants.
Adulteration, with sugars, sweeteners, and syrups.	Nothing should be added to the genuine honey (including substances that are contained naturally in genuine honey).
Dehydration of extracted immature honey with technical devices.	Moisture reduction of immature honey is an inseparable part of the maturation process and should be done exclusively by bees.
Use of Ion-Exchange Resins to remove residues, offensive aroma, indicators of quality such as 5-hydroxymethylfurfural (HMF), and to lighten the color.	Genuine honey should not be processed to such an extent that its essential composition is changed and/or its quality is impaired. No pollen or constituents particular to genuine honey may be removed.
Addition of pollen to honey.	Any additions of pollen to genuine honey through whatever means, which are for the purposes of concealing the origins of honey (including those substances that are contained naturally in honey) can be used to obfuscate the honey authenticity detection process.
Heating.	Some genuine honeys are heated to high temperatures, for easier manipulation and to avoid crystallization, but are presented as “raw.” When heating honey to high temperatures, <i>i.e.</i> , 105 degrees or more, the enzymes naturally found in honey decrease or vanish altogether and should not be called

PRACTICE	HOW IT COMPROMISES THE INTEGRITY OF GENUINE HONEY
	“raw honey.”

6 47. Honey imported from overseas is often adulterated—either by having sugars
 7 added or by being cleaned, heated, or filtered—and then is blended with small amounts of
 8 genuine honey until the sticky, fake honey product is uniform.

9 48. Each of the Defendants is aware of and has participated in the fraud. The
 10 Importer Defendants know the “honey” they purchase from foreign exporters is fake. The
 11 Packer Defendants are likewise aware the “honey” they purchase, blend, and repackage for
 12 resale in the retail, wholesale, or bulk ingredient market is fake. And the Certifier Defendants
 13 knowingly certify Defendants’ fake honey as genuine.

14 49. Fake honey that largely consists of cheap sugars processed to have the
 15 appearance and consistency of honey—including, for example, honey imported by the
 16 Importer Defendants, packed by the Packer Defendants, and certified by the Certifier
 17 Defendants—has driven global honey prices into the ground, leaving domestic commercial
 18 beekeepers, like Plaintiffs, who produce real bee-made honey, unable or only barely able to
 19 sell their genuine honey for a profit. As a result of Defendants’ conduct, Plaintiffs and all
 20 other similarly-situated domestic commercial beekeepers who produce and sell genuine
 21 honey are on the brink of financial collapse, and the world at large faces the catastrophic
 22 implications of a bee shortage that could eradicate the world’s food supply.

23 **III. THE DETECTION OF FAKE HONEY**

24 50. Various methods of testing have been developed to detect honey adulteration—
 25 in other words, to distinguish between genuine honey and fake honey.

26 51. Elemental Analysis Isotope Ratio Mass Spectrometry (“EA-IRMS”), developed
 27 over 25 years ago, has been the traditional method of honey adulteration detection. EA-IRMS
 28 detects C4 sugars in honey. True honey comes from flowering plants which produce C3

1 sugars, but honey diluted with artificially manufactured syrup, like corn syrup, shows traces
2 of C4 sugars, which render it fake honey.

3 52. While EA-IRMS was the original standard for honey fraud detection, the recent
4 use of other syrups made from C3 plants to adulterate honey, mainly from rice, has made the
5 detection of fraud much more difficult, since these adulterants are undetectable by EA-IRMS.
6 This makes EA-IRMS largely ineffective at detecting most newer methods of honey
7 adulteration.

8 53. One of the more promising tools in the detection of food adulteration is nuclear
9 magnetic resonance (“NMR”) testing.¹² This technique can measure differing compounds and
10 allow thorough examination of the structural information of compounds contained in a honey
11 sample to determine if it is genuine honey or fake honey. NMR tests for the presence and
12 absence of 37 major components within honey and has the biggest database of any scientific
13 methodology applied to honey. NMR testing is capable of:

14 a. Detecting the addition of exogenous sugars (from whatever source: cane,
15 corn, beet, wheat, rice, etc.);

16 b. Confirming the floral origin of honey declared on a product’s packaging
17 (single-flower honeys);

18 c. Detecting irregularities, such as excessive heat treatment (determination
19 of 5-HMF) or fermentation; and

20 d. Quantifying the main sugars (glucose, fructose, sucrose).

21 54. The development and application of NMR to the analysis of honey authenticity
22 is ongoing, through collaboration between private, government, and academic laboratories.

23 55. Despite the superior reliability of NMR testing in detecting fake honey,
24 Defendants have historically suppressed NMR as a viable test, and have chosen instead to use
25

26 ¹² In addition to NMR testing, High Resolution Mass Spectrometry (“HRMS”) is considered
27 one of the better tools in detecting honey fraud. HRMS allows combining several individual
28 adulteration marker methods to one single multimethod detecting several hundred different
adulteration markers simultaneously.

1 EA-IRMS, knowing the fake honey they deal in could “pass” the less rigorous test.

2 56. Although NMR testing is far more capable of detecting honey adulteration than
3 EA-IRMS testing, it is not perfect and has, over time, become subject to manipulation,
4 including by Defendants. For example, while NMR initially tested for 37 different parameters
5 to ensure honey authenticity, recently True Source and other Defendants ensured two crucial
6 markers were removed from future testing. This means adulterated honey that may have been
7 flagged by NMR testing in its true form will now “pass” the watered-down NMR test,
8 allowing Defendants to game the test.

9 57. Additionally, reading the data that result from NMR testing is complicated and
10 requires a level of expertise that few have attained. Someone without appropriate expertise
11 may fail to realize some markers have been removed from the analysis and is likely unable to
12 understand what the underlying data say about the authenticity of the honey sample.

13 58. As Defendants have figured out how to game NMR testing, making it less
14 effective at detecting adulterated honey, have become increasingly willing to employ it in
15 their businesses, leveraging that willingness to create a false air of concern for authenticity.

16 **IV. DEFENDANTS’ SCHEME TO DEFRAUD THE UNITED STATES’ HONEY
17 MARKET**

18 **A. Industry Members Create True Source in 2010, Purportedly to Address
19 Honey Adulteration**

20 59. For some time, there has been increasing public attention on honey adulteration
21 and fraud. In 2010, four North American honey packers and importers, including defendant
22 Dutch Gold, launched the Honest Honey Initiative and “pledged to help protect the quality
23 and reputation of the U.S. honey supply, as well as the sustainability of U.S. beekeepers and
24 honey businesses.”¹³

25 60. A few months later, the name was changed to True Source Honey, as explained

27 28 ¹³ “‘Honest Honey’ Launched to Protect U.S. Honey Consumers and Customers” (May 6,
“Honest Honey” Launched to Protect U.S. Honey Consumers and Customers” (May 6,
2010), available at https://truesourcehoney.com/newsroom/release_050610w.php.

1 by Jill Clark, of Dutch Gold: “Initially we launched this initiative purely as an educational
 2 effort, but due to interest by the industry we feel the need to develop a name that can be
 3 trademarked for broader use . . . Honest honey was not available for trademark use, so we’ve
 4 moved to True Source Honey™, a name which works even better in calling attention to the
 5 need for true and legal sourcing of this valuable food.”¹⁴

6 61. Part of the impetus for True Source’s creation was “Project Honeygate,” a two-
 7 phase investigation beginning in 2008, led by U.S. Customs and Border Protection and the
 8 United States Attorney for the Northern District of Illinois, into a widespread conspiracy to
 9 evade anti-dumping duties on Chinese imported honey. In the first phase, federal authorities
 10 charged 14 individuals with evading about \$80 million in anti-dumping duties. In 2013,
 11 during the second phase, five individuals and two packers—Honey Holding and Groeb Farms
 12 Inc.—were charged with transshipping honey from China through other countries and
 13 mislabeling it to make it appear as though it came from Indonesia, Thailand, or elsewhere, to
 14 avoid paying \$180 million in anti-dumping duties. Honey Holding and Groeb Farms entered
 15 into deferred prosecution agreements and paid \$1 million and \$2 million in fines,
 16 respectively. Notably, the creditors of Honey Holding and Groeb Farms (including Sunland,
 17 Lamex and Odem) were, at the time, selling circumvented and adulterated honey to Barkman
 18 and Dutch Gold as well.¹⁵

19 62. True Source emerged in the midst of Project Honeygate, claiming to ensure that
 20 its members’ honey was ethically sourced in a transparent and traceable manner from known
 21 beekeepers to consumers, and that the entire supply chain was in full accordance with United
 22 States law and without circumvention of trade duties.

23
 24 ¹⁴ “‘Honest Honey’ Changes Name to ‘True Source Honey™’, To Clarify Goal of Protecting
 25 U.S. Honey Consumers and Customers” (July 15, 2010) [“Honest Honey Changes Name”],
 26 at https://truesourcehoney.com/newsroom/release_071510w.php.

27 ¹⁵ These allegations are included as factual background regarding the formation of True
 28 Source. Plaintiffs do not allege any Defendant has transshipped honey or avoided
 antidumping duties.

1 63. Dutch Gold's Jill Clark explained the goals of True Source as follows:

2 When honey is imported illegally, no-one can be confident of its true source
3 and quality. Some products are not 100% honey and have other quality
4 issues[.] . . . We're asking people who buy and love honey to find out more
5 about how the honey they enjoy is sourced. By raising awareness of unfair
6 trade practices and taking the True Source Honey pledge, we hope to protect
7 consumers and manufacturers who use honey, and to preserve the fair honey
8 trade. . . . We estimate that millions of pounds of Chinese honey continue to
9 enter the U.S. from countries that do not have commercial honey businesses[.]
10 . . . For example, countries such as Indonesia, Malaysia, Taiwan, Thailand,
11 the Philippines and Mongolia raise few bees and have no history of producing
12 honey in commercial quantities, yet have recently exported large amounts of
13 honey to the United States.¹⁶

14 64. In November 2010, True Source announced a certification program, "True
15 Source Certified," which it said was "designed to certify the origin, food safety and purity of
16 the honey being distributed and consumed within North America."¹⁷ The program
17 purportedly provides a traceability system for participants who wish to demonstrate through
18 a supposedly independent, third-party audit that their sourcing practices are in compliance
19 with requirements of the True Source Certified Standard. This traceability system claims to
20 be designed to allow honey to be tracked from the consumer, back through the supply chain,
21 to the country of origin and to the beekeeper who harvested the honey from the beehive.

22 65. Although True Source was originally concerned with the illicit transshipment of
23 honey, its focus has now shifted to honey fraud, as evidence of widespread adulteration has
24 come to light.

25 66. Participants of True Source Certified are required to comply with specific

26 ¹⁶ *Id.*

27 ¹⁷ "True Source Honey Will Launch Certification Program To Help Stem the Tide of Illegal
28 Honey" (November 12, 2010), available at
 https://truesourcehoney.com/newsroom/release_111210.php.

1 standards (the “True Source Certified Standard”).¹⁸ Generally: (1) participating beekeepers
2 are required to produce and sell authentic honey directly from their own operations; (2)
3 certified processors/exporters are required to purchase honey only from participating
4 beekeepers; (3) participating importers are required to purchase honey only from certified
5 processors/exporters; and (4) certified packers are required to purchase honey only from
6 certified processor/exporters, registered importers, and registered beekeepers.

7 67. Participation for Beekeepers. “Beekeeper,” as defined under the True Source
8 Certified Standard, refers to the “[p]rimary producer with direct ownership or control of
9 honey production.”¹⁹ In order to be registered with True Source as participating members,
10 beekeepers must produce and sell authentic honey directly from their own operations; must
11 follow all applicable laws pertaining to the production, sale, and/or export of honey; and must
12 ensure that each load sold is accompanied by a bill of lading with the beekeeper and
13 purchaser’s name and address, drum count, and weight.²⁰

14 68. Certification for Processors/Exporters. “Processor/Exporter,” as defined under
15 the True Source Certified Standard, refers to a “company located outside the United States
16 that operates a bulk plant/factory for purposes of preparing honey for export.”²¹ In order to
17 be True Source Certified, processors/exporters are required to establish a system of
18 traceability; clearly label all individual drums of honey with certain information (including
19 country of origin); seal each load of honey with the True Source Certified Seal and True
20 Source Seal Number, which is assigned by True Source to each full ocean container load or
21 full truckload of honey exported by certified processors/exporters; maintain and attach to the
22
23
24

25 ¹⁸ See 2021 True Source Standards.

26 ¹⁹ *Id.*

27 ²⁰ *Id.*

28 ²¹ *Id.*

1 True Source Certified Seal Database²² certain export documentation (including ocean/truck
2 bills of lading and analysis reports on the honey's origin and authenticity); and participate in
3 a third-party certification audit and an annual recertification audit (among other things).²³

4 69. The third-party certification audit for processors/exporters involves several key
5 components:

- 6 a. Evaluating the processor/exporter's system of traceability;
- 7 b. Collecting random samples of unprocessed honey inventory to test for
8 country of origin and authenticity using pollen analysis;
- 9 c. Confirming that the processor/exporter is not using processing equipment
10 or technology that changes the fundamental composition of honey (e.g., the use of resin
11 technology); and
- 12 d. Confirming that the processor/exporter maintains and demonstrates a
13 system to ensure honey authenticity.²⁴

14 70. Once a honey packer is True Source Certified, it is subject to an annual
15 announced surveillance (recertification) audit.²⁵

16 71. True Source Certified processor/exporters are required to purchase honey only
17 from True Source participating beekeepers.

18 72. Participation for Importers. "Importer," as defined under the True Source
19 Certified Standard, refers to a "company that purchases honey from a processor/exporter and
20 is responsible for (1) ensuring the imported goods comply with local laws and regulations,
21 (2) filing a completed duty entry and associated documents, and (3) paying the assessed

22 The True Source Certified Seal Database is True Source's data entry system verifying each
link of the supply chain through seal reconciliation.

23 2021 True Source Standards.

24 *Id.*

25 *Id.*

1 import duties and other taxes on those goods and then selling the honey to packers.”²⁶ In order
2 to be registered with True Source as participating members (and obtain a “certificate of
3 participation”), honey importers are required to:

- 4 a. Purchase honey from “Approved Countries”;
- 5 b. Maintain the True Source Certified Seal Database; and
- 6 c. Maintain and attach to the True Source Certified Seal Database certain
7 required documents, including ocean/truck bills of lading (which must contain True
8 Source seal numbers) and analysis reports on the honey’s origin and authenticity.²⁷

9 73. Importers that are participating members of True Source must buy only from
10 True Source Certified processor/exporters and sell only to True Source Certified packers.²⁸

11 74. Defendants Sunland, Lamex, and Odem are participating members of True
12 Source, and Sunland and Odem have company representatives on the board of True Source.
13 Odem claims to be a “2010 Co-founder of True Source.”²⁹

14 75. Certification for Packers. “Packer,” as defined under the True Source Certified
15 Standard, refers to a “company in North America that is involved in purchasing, blending,
16 processing and repackaging raw honey in preparation for the retail, wholesale or bulk
17 ingredient market.”³⁰ In order to be True Source Certified, packers are required to:

- 18 a. Ensure their honey sourcing comes from True Source participants, *i.e.*,
19 certified processor/exporters, registered importers, and registered beekeepers;
- 20 b. Purchase honey from certain “Approved Countries”;
- 21 c. Maintain a system of traceability;

22
23

²⁶ *Id.*

24
²⁷ *Id.*

25
²⁸ *Id.*

26
²⁹ <https://www.odeminternational.com/the-company>

27
³⁰ *Id.*

- 1 d. Maintain the True Source Certified Seal Database;
- 2 e. Maintain documentation for every purchase shipment of raw honey (e.g.,
- 3 ocean/truck bills of lading, which must contain the True Source Certified seal number,
- 4 and analysis reports on the honey's origin and authenticity);
- 5 f. Allow entry to an audit firm for unannounced sampling; and
- 6 g. Successfully complete certification an audit by a third-party audit firm.³¹

7 76. The third-party certification audit for packers involves several key components:
8 a. Evaluating the packers' system of traceability;
9 b. Confirming that each load purchased and imported has an associated True
10 Source Certified seal number;

11 c. Collecting random samples of unprocessed honey inventory to test for
12 country of origin using pollen analysis;

13 d. Confirming that the packer is not using processing equipment or
14 technology that changes the fundamental composition of honey (e.g., the use of resin
15 technology); and

16 e. Confirmation that the packer maintains and demonstrates a system to
17 ensure honey authenticity.³²

18 77. Once a honey packer is True Source Certified, it is subject to an annual
19 announced surveillance (recertification) audit.³³

20 78. True Source Certified packers are required to purchase honey only from True
21 Source participating importers, certified domestic beekeepers, and certified
22 processors/exporters.

23 79. Defendants Barkman and Dutch Gold are True Source Certified packers.

25 ³¹ *Id.*

26 ³² *Id.*

27 ³³ *Id.*

1 80. True Source Certified was launched in January 2011.³⁴ As an integral part of the
 2 certification process, True Source engages third party testers and auditors, including Intertek
 3 and NSF, directing them to conduct audits of True Source Certified honey packers and their
 4 supplying beekeepers located within the state of California.³⁵ For example, upon launching
 5 True Source Certified, True Source announced that, “For those applying for certification,
 6 Intertek will conduct unannounced inspections, review documents and collect samples for
 7 country-of-origin verification.”³⁶

8 81. Intertek and NSF knowingly and intentionally conduct their testing and auditing
 9 in a manner that conceals evidence of adulteration. For example, Intertek has traditionally
 10 used only the outdated and ineffective EA-IRMS testing method, which is incapable of
 11 detecting all methods of honey adulteration and fraud, instead of the more sophisticated NMR
 12 testing, to test honey samples for the purpose of awarding True Source Certification. To the
 13

14 ³⁴ “True Source Honey Launches Certified Honey Traceability Program To Protect Honey
 15 Consumers and Customers” (January 11, 2011) [“Certified Honey Traceability Program”],
 16 available at https://truesourcehoney.com/newsroom/release_011111.php.

17 ³⁵ Beekeepers selected to participate in a packer audit must allow auditors to inspect facilities
 18 and records to verify the beekeeper has enough hives to support the volume of honey sold.
 19 2021 True Source Standards at 27-28. Such California beekeepers include at least the
 20 following: A & Bee Provisions; Arrowsmith & Sons Apiaries; Ashurst Honey Co.; Bee-lieve
 21 Apiary LLC; Bloom Honey, LP; Brock Ashurst Bees; BWB Honey Company; Cary’s Honey
 22 Farms, Inc.; Chavinda HoneyBee Farms Inc.; Colony & Keeper; Delgado’s Bee Farm; Dion
 23 Ashurst Farms; Eli Figueiroa’s Bee Service; Elsi Bees; Fairview Honey; Foothills Honey
 24 Company; Glory Bee Co. LLC; Godlin Bees, Inc.; Gonzalez Apiaries; Inland Bees Inc.;
 25 Island District Honey Company; Jaynes Honey Co.; Jim’s Honey Farm LLC; John Bradley;
 26 Lee Parrish Beekeeping; Lucian Nastase; M & M Apiary LLC; Marquette Bees, Inc.;
 27 Matthew T Sheilds; McWilliams Honey Company; Mickey Bee LLC; Norcalbees; Olivarez
 Honey Bees; Palmer Honey Company; Reynaga Apiaries; Royal Honey; Russell Allen; Sage
 Mountain Apiaries; Sample Family Apiaries; Soffel Farms Inc.; Steve Blair; Steve E Park
 Apiaries; Strachan Apiaries, Inc.; T & B Apiaries; Tim Fenston; Traveling Honey Bee’s Inc.;
 Travis Soffel; Ubees California LLC; UHB, LLC; West Apiaries; and Wonderful Bees. See
<http://www.tshmember.com/beekeepers.php>.

28 ³⁶ Certified Honey Traceability Program, *supra* n.33.

1 extent Intertek has used NMR testing, it has used a watered-down version that has crucial
2 detection markers removed, and the underlying data are not being properly analyzed by
3 someone adequately qualified to detect the missing markers and correctly interpret the results.

4 82. In one example of the scheme, NSF conducted a series of inspections and
5 evidence indicating some honey being tested for True Source Certification was fake, but at
6 the direction of True Source, failed to note this evidence in its reports, allowing the True
7 Source Certified Seal to be applied to this fake honey, and allowing the Importer and Packer
8 Defendants to sell this fake honey as authentic.

9 83. Further dubious are the audits (conducted by NSF) used to ensure traceability of
10 honey back to the beekeeper, ensure the honey is not being compromised in any way to
11 constitute adulteration, and ensure the honey supply chain is secure from actors who may
12 wish to adulterate or substitute adulterated product for genuine honey. NSF claims to be able
13 to trace the honey back to the beekeeper, but this is not possible when both the exporters and
14 packers are blending honey from multiple beekeepers. Often, the honey put out by the Packer
15 Defendants is labeled (for example) as follows: "Product of the United States, Canada, Brazil,
16 Argentina and India." The idea that honey could be traceable, when it comes from multiple
17 countries, strains credulity. Intertek is supposedly testing samples at various points in the
18 honey supply chain and reporting on these tests back to True Source. If the audits done by
19 NSF and the testing done by Intertek were in fact done ethically and properly, very little fake
20 honey would be available in the United States. NSF and Intertek are willfully blind to the
21 very thing they are supposed to oversee for True Source, undermining the integrity of the
22 entire certification program.

23 84. The True Source Certified Seal has been applied to the Importer Defendants'
24 and the Packer Defendants' fake honey, which has been distributed and sold throughout the
25 United States, including in California. In approving such products to bear its Certification
26 Seal, True Source is aware the products are not authentic honey.

27
28

1 85. True Source certifies honey packers in California³⁷ and issues certificates of
2 participation to participating honey importers in California,³⁸ knowing those companies'
3 products will be and are directed at California consumers while bearing the True Source
4 Certified Seal. True Source encourages, intends for, and knows that the True Source Certified
5 honey packers (including the Packer Defendants) use their certification seals to engage in
6 marketing efforts within the State of California.

7 86. True Source strictly controls the use of its True Source Certified Seal, including
8 in "Retail markets," providing detailed "guidelines [that] must be strictly observed when
9 using the True Source Certified® logo."³⁹ True Source claims that the True Source Certified
10 Seal may only be applied to products which are 100% pure, authentic honey.

11 87. True Source also promotes itself to major retailers throughout the country and
12 California, touting its certification program "as a distinctive point of difference in reach
13 discerning consumers,"⁴⁰ and encouraging retailers to purchase only True Source Certified
14 honey. As a result of its efforts, many retailers, including Costco, have adopted a policy of
15 buying only True Source Certified honey.

16 88. NSF and Intertek audit and test True Source Certified honey sold in California.

17 **B. The Certifier Defendants' Scheme to Defraud**

18 89. Although it purports to be a watchdog of the honey industry, True Source in fact
19 regularly and intentionally fails to monitor its members for actual compliance with the True
20 Source Certification Program requirements and has regularly and intentionally failed to

22 _____
23 ³⁷ True Gold Honey, Inc was a California True Source certified packer during the Class Period.
24

25 ³⁸ California True Source certified importers include at least BCD Foods, Impex Group,
26 Ortega's Ultimate Trading, Toshuku America, Inc., and True Minh Inc. See
<http://www.tshmember.com/importers.php>.

27 ³⁹ See 2021 True Source Standards at 31-37.

28 ⁴⁰ <https://truesourcehoney.com/true-source-certified/>.

1 implement its testing protocol as described above, to increase its profits and those of its honey
 2 packer and importer members, including Defendants. Far from being an independent
 3 organization conducting audits of third parties, True Source is entirely self-regulating. The
 4 True Source Board of Directors is composed of representatives of the same entities (including
 5 the Importer Defendants and Packer Defendants) that it is supposed to audit. This creates an
 6 inherent conflict of interest which Defendants have leveraged to their great advantage.

7 90. Faced with increasing press coverage of honey fraud and mounting industry
 8 pressure about proper testing of honey imports, on December 14, 2020, True Source issued a
 9 self-serving press-release-style advertisement in the American Bee Journal, saying it was
 10 “updating its certification standards in 2021” to test authenticity of imported honey “by an
 11 accredited laboratory at some point in the supply chain using either EA-IRMS and Nuclear
 12 Magnetic Resonance (NMR) profiling or EA-IRMS and High Resolution Mass Spectrometry
 13 (HRMS) analysis.”⁴¹ The ad quotes Gordon Marks, executive director of True Source, as
 14 saying that “The new standards specify authenticity testing which utilizes longstanding
 15 approved methods along with cutting-edge technologies to detect sugars/syrups.”⁴²

16 91. Contrary to the advertisement, however, for over a decade, True Source has
 17 downplayed the importance of the “cutting edge” NMR testing, and its members, including
 18 Gordon Marks, have publicly stated that NMR testing is not necessary or superior to other
 19 forms of testing, like EA-IRMS, even though that method is objectively inferior. While NMR,
 20 if properly run and the data appropriately analyzed, is effective at detecting adulteration and
 21 fraud, EA-IRMS is easy to circumvent.

22 92. True Source has long failed to implement more effective testing methods like
 23 NMR because True Source does not want its fraud revealed, since more accurate methods are
 24

25
 26 ⁴¹ “True Source Honey to Update Certification Standards in 2021” (Dec. 14, 2020) [“Update
 27 to Certification Standards”], available at <https://americanbeejournal.com/true-source-honey-to-update-certification-standards-in-2021>.

28 ⁴² *Id.*

1 able to show that the honey it is certifying is fake honey. Moreover, True Source is aware that
 2 its certified members can manipulate, and in many instances have manipulated, the findings
 3 of an NMR test by requesting that the testing/auditing companies (*i.e.*, Intertek and NSF) test
 4 only certain components that would allow their honey to pass muster, while failing to
 5 undertake a comprehensive analysis that would produce a full NMR profile and be able to
 6 conclusively detect fraud. Intertek and NSF are fully aware this kind of partial NMR testing
 7 allows honey fraud to go undetected.

8 93. The True Source Board of Directors meets annually during the first week of
 9 January, typically, the day before the American Honey Producers Association's annual
 10 convention, and then again in June. Until recently, members of the True Source Board of
 11 Directors pretended to be skeptical of NMR technology, assailing it as unreliable, even while
 12 knowing NMR not only is reliable, but that it would reveal the honey adulteration and fraud
 13 perpetuated by True Source members, including the Importer and Packer Defendants. In
 14 particular, Eric Wenger (Barkman Director of Honey Procurement), Nicholas Sargeantson
 15 (Sunland President), and Jill Clark (Dutch Gold Vice President of Sales and Marketing)
 16 participated in these discussions.

17 94. True Source's knowledge of the ongoing fraud in the honey industry was
 18 summed up by Gordon Marks himself: "While most honey comes from high-quality, legal
 19 sources, adulterated honey and illegally sourced honey remains a global issue that undercuts
 20 fair market prices and damages honey's reputation for quality and safety."⁴³

21 95. True Source, in conjunction with Intertek and NSF, has certified and continues
 22 to certify as True Source Certified certain honey packers, including the Packer Defendants,
 23 as well as exporters of adulterated honey, and has issued and continues to issue certificates
 24 of participation to participating importers, including the Importer Defendants, even though
 25 True Source is aware they do not meet the standards for True Source Certification and
 26 Participation.

27
 28⁴³ Update to Certification Standards, *supra* n.4041.

1 96. True Source is fully aware its Certification and Participation program has been
2 and continues to be used by member honey packers and importers, including the Importer
3 Defendants and Packer Defendants, to misrepresent the authenticity of their fake honey, and
4 has allowed its members to use the True Source Certified Seal to mislead businesses and
5 consumers into believing the honey they purchase is authentic, when it is not.

6 97. NSF is fully aware that its audits are inadequate to detect all methods of honey
7 adulteration and fraud, and that its inadequate audits are being used to fabricate the
8 authenticity of True Source members' fake honey, including the Importer and Packer
9 Defendants' fake honey. In fact, throughout the Class Period, NSF has also accepted bribes
10 from True Source Certified exporters, including exporters who sell "honey" to Defendants,
11 to conduct sham audits designed to show their honey is genuine, when in fact it is adulterated
12 with extraneous, non-honey syrups, and/or treated with resin technology. True Source enables
13 this conduct by providing NSF with a PowerPoint presentation outlining the cursory auditing
14 process it must use to ensure any exporter or packer will "pass" (i.e., to ensure that the
15 exporter's or packer's honey is labeled genuine when in fact it is not), and NSF has in fact
16 routinely followed these instructions throughout the Class Period with respect to True Source
17 Certified exporters, whose "honey" is purchased by Defendants and is ultimately sold to
18 United States consumers as genuine honey.

19 98. For example, Shakti Apifoods Pvt Ltd, a True Source Certified exporter based
20 in Amir Nagar, India, offered bribes that were accepted by NSF to ensure its honey was
21 classified as True Source Certified, during the Class Period. Lamex regularly purchases
22 "honey" from Shakti Apifoods Pvt Ltd, knowing it contains extraneous syrups and/or is
23 processed with resin technology, yet continues to sell it to various entities in the United
24 States' honey market, including in California, during the Class Period.

25 99. Intertek, in turn, tests the honey sold by True Source Certified exporters and
26 packers, including the Packer Defendants. Rather than engaging in legitimate testing for
27 honey authenticity, Intertek falsely reports that the honey is not adulterated, without providing
28 underlying data or analysis.

1 100. At a True Source meeting in Florida in January 2015, Prakash Kejriwal of
 2 Kejriwal Bee Care India (Pvt.) Ltd. introduced a Powerpoint presentation entitled Residue
 3 Removal from Honey through Chinese Resin Technology, which touted the use of resin
 4 technology to remove residues and “bring down the honey color,” falsely claiming the FDA
 5 had approved it.

6 101. In fact, Charlotte Liang, a chemist at the FDA, stated in a February 23, 2016
 7 letter to Ron Phipps (Vice-President of the Apimondia Scientific Commission on Beekeeping
 8 Economy) that “calling the product that has been treated with the resin technology simply
 9 honey would not accurately identify food generally understand [sic] to be honey. The product
 10 should be labeled with a name that sufficiently describes its characterizing properties in a
 11 way that distinguishes it from honey which has not been treated with resin technology.”

12 102. Mr. Kejriwal’s promotion of resin technology was not questioned by True
 13 Source but encouraged. Indeed, the Board later appointed Mr. Kejriwal as the Vice Chair of
 14 True Source, a position he currently holds, replacing Norberto Garcia.⁴⁴ Mr. Garcia’s removal
 15 was significant because he had begun presenting compelling evidence of adulteration in the
 16 international honey market, including evidence of transshipment and the use of resin
 17 technology.

18 103. Prior to his removal from True Source, Mr. Garcia spoke at a True Source
 19 meeting in San Diego in 2018, attended by representatives from at least the following
 20 Defendants: True Source, Sunland (Nicholas Sargeantson), Lamex (Greg Olson), Odem
 21 (Elise Gagnon), Barkman (Eric Wenger), and Dutch Gold (Jill Clark). Also in attendance
 22 were representatives from Indian and Vietnamese honey suppliers. The Indian exporters
 23 present at the meeting stated that if immature, unripened honey is considered adulterated—
 24 which it is—then 100% of India’s honey exports are adulterated. Also at this meeting, NSF
 25 reported that it had observed extraneous syrups and resin technology in Indian honey

27 ⁴⁴ Mr. Garcia is the Senior Consultant of NEXCO S.A., an Argentine honey exporter,
 28 President of the International Honey Exporters Organization (IHEO), and President of the
 APIMONDIA Working Group on Adulteration of Bee Products.

1 factories, and asked True Source if those observations should be included in written audit
2 reports. True Source instructed NSF not include any such observations in its written reports.

3 104. Thus, while publicly lamenting that “ensuring honey authenticity is one of the
4 greatest challenges facing the honey industry” because “there is no single universal analytical
5 method available which is capable of detecting all types of adulterants in honey with adequate
6 sensitivity,”⁴⁵ True Source actually leverages this deficiency in the detection of honey
7 adulteration to approve its members’ fake honey for certification.

8 105. In furtherance of Defendants’ conspiracies and schemes, True Source, in
9 conjunction with Intertek and NSF, engaged in repetitious and systematic mail fraud and
10 interstate and foreign wire fraud in violation of 18 U.S.C. §§ 1341 and 1343, by using or
11 causing the use of private or commercial interstate carriers and wires in interstate and foreign
12 commerce to assist in the repeated, systematic, and fraudulent distribution and sale of fake
13 honey to businesses and persons throughout the United States.

14 106. Specifically, in furtherance of the scheme, True Source, Intertek, and NSF
15 created, maintained, and transmitted through the mail and wires fake and fraudulent papers
16 to misrepresent fake honey as authentic. This includes at least ocean or truck bills of lading,
17 invoices, delivery orders, warehouse inbound receipts, EA-IRMS Reports, HRMS reports,
18 and NMR reports.

19 **C. The Importer Defendants’ Scheme to Defraud**

20 107. The Importer Defendants are some of the largest honey importers in North
21 America. Each of the Importer Defendants is a participating member of True Source.⁴⁶

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23
24

⁴⁵ See <https://truesourcehoney.com/the-issue>. True Source recently sponsored a “Honey Adulteration Symposium” at University of California, Davis, on April 22, 2021, ostensibly to bolster its false commitment to combatting honey fraud.

25
26

⁴⁶ See Rising Tide of Honey Laundering, Descartes Datamyne (November 18, 2011),
27 available at <https://www.datamyne.com/blog/data-applications/rising-tide-of-honey-laundering>; see also Participating Importers, True Source, available at
28 <http://www.tshmember.com/importers.php>.

1 108. The Importer Defendants hold themselves out as honest dealers in the honey
2 industry, committed to ensuring the authenticity of their honeys.

3 109. Sunland represents that its “imports are meticulously controlled for quality and
4 traceability, with suppliers vetted in accordance with FDA guidelines and our own exacting
5 standards,” and that, “As a member of True Source Honey, Sunland is involved in leading
6 the honey industry’s efforts to protect the reputation of legitimately imported honey.”⁴⁷

7 110. Lamex claims its “sources are up to welfare, traceability, quality, and nutrition
8 standards demanded by consumers.”⁴⁸

9 111. Odem represents that it “is working closely with organizations that are fighting
10 illegal honey imports, [and] with the authorities responsible for quality control,” and that it
11 “commits itself to create a healthier environment by fighting illegal honey trade. The
12 company is taking an active part in associations such as True Source Honey, a key player in
13 this conflict resolution.”⁴⁹

14 112. Despite these claims, the Importer Defendants have engaged in a fraudulent
15 scheme to import fake honey into the United States, knowingly importing honey that contains
16 extraneous syrups and/or processed with resin technology. Moreover, the “honey” imported
17 by the Importer Defendants from Indian and Vietnamese honey suppliers is immature and
18 unripened. Despite knowledge their “honey” is not genuine, Importer Defendants have sold
19 and continued to sell its honey products to purchasers in the United States during the Class
20 Period.

21 113. At the request of Barkman, Odem’s honey was tested in June 2018 by an
22 accredited food testing laboratory using NMR technology and 24 of its samples originating
23 from India were found to be adulterated with added sugar syrup. After receiving the results,
24 Barkman ceased contact with the laboratory and turned instead to Intertek to provide testing,

25
26 ⁴⁷ <http://www.sunlandhoney.com>.

27 ⁴⁸ <https://tinyurl.com/bdk9t2p2>.

28 ⁴⁹ <https://www.odeminternational.com/the-company>

1 knowing that Intertek would provide the results it was looking for. Barkman went on to sell
2 the adulterated honey it purchased from Odem to purchasers in the United States during the
3 Class Period.

4 114. Nicholas Sargeantson of Sunland admitted in January 2010 that there is no white
5 or extra light amber honey that originates from India, Vietnam, or Thailand, however Sunland
6 continues to import such “honey” from those countries.

7 115. Other True Source members’ brands of fake “honey” products have also been
8 tested by an accredited laboratory and found to be adulterated, including at least Clover
9 Valley, Burleson, Parade, and Glory Bee “honey.”

10 116. Notwithstanding, the Importer Defendants have used and continue to use the
11 True Source Certified Seal to falsely represent that their fake honey products are genuine
12 honey.

13 117. The Importer Defendants knowingly, intentionally, and repeatedly conspired
14 with True Source and the Packer Defendants to introduce fake honey into the United States’
15 honey market.

16 118. The Importer Defendants know their honey products are fake, based in part on
17 the low price of the exported honey they purchase in relation to the fair market price of
18 genuine honey.

19 119. In furtherance of Defendants’ conspiracies and schemes, the Importer
20 Defendants engaged in repetitious and systematic mail fraud and interstate and foreign wire
21 fraud in violation of 18 U.S.C. §§ 1341 and 1343, by using or causing the use of private or
22 commercial interstate carriers and wires in interstate and foreign commerce to repeatedly,
23 systematically, and fraudulently distribute and sell fake honey to packers and other businesses
24 throughout the United States.

25 120. The Importer Defendants have actively concealed their repeated, systematic, and
26 fraudulent distribution and sale of fake honey by creating, maintaining, and transmitting
27 through the mail and wires fake and fraudulent bills of lading, invoices, packing lists, and
28 other papers to falsely and fraudulently represent fake honey products as genuine.

1 121. Sunland has routinely and knowingly purchased fake honey from True Source
2 Certified exporters for sale in the United States' honey market. Examples of these fraudulent
3 transactions include:

4 a. On June 7, 2020, Sunland received 186 drums of "Natural Indian Bees
5 Honey" from Allied Natural Product, a True Source Certified exporter based in New
6 Delhi, India (bill of lading number: HLCUDE1KD04404AA) (True Source Certified
7 Number C0288576-TSH). The port of discharge was in Jacksonville, Florida. On or
8 about April 2016 (and annually thereafter), True Source certified and recertified Allied
9 Natural Product as True Source Certified, knowing its "honey" is fake or adulterated,
10 and having caused NSF and Intertek to engage in sham auditing and testing to obscure
11 the adulteration. Sunland knew Allied Natural Product's "honey" contained extraneous
12 syrups and/or was processed with resin technology, yet knowingly sold it to various
13 entities in the United States' honey market, including in California.

14 b. On September 3, 2019, Sunland received 64 drums of "Natural Honey"
15 (Extra Light Amber) from Kejriwal Bee Care India (Pvt.) Ltd., a True Source Certified
16 exporter based in New Delhi, India (bill of lading number: CMDUAMC0760419)
17 (True Source Certified Number C0238179-TSH). The port of discharge was in
18 Norfolk, Virginia. On or about September 2011 (and annually thereafter), True Source
19 certified and recertified Kejriwal Bee Care India (Pvt.) Ltd. as True Source Certified,
20 knowing its "honey" is fake or adulterated, and having caused NSF and Intertek to
21 engage in sham auditing and testing to obscure the adulteration. Sunland knew
22 Kejriwal Bee Care India (Pvt.) Ltd.'s "honey" contained extraneous syrups and/or was
23 processed with resin technology, yet knowingly sold it to various entities in the United
24 States' honey market, including in California.

25 c. On September 1, 2019, Sunland received 124 drums of "honey" from
26 PHONGSON Co., Ltd., a True Source Certified exporter based in Lâm Đồng, Vietnam
27 (bill of lading number: PRFTPSPDX980090) (True Source Certified Number
28 C0238191-TSH). The port of discharge was in Seattle, Washington. On or about May

1 2014 (and annually thereafter), True Source certified and recertified PHONGSON Co.,
2 Ltd. as True Source Certified, knowing its “honey” is fake or adulterated, and having
3 caused NSF and Intertek to engage in sham auditing and testing to obscure the
4 adulteration. Sunland knew PHONGSON Co., Ltd.’s “honey” contained extraneous
5 syrups and/or was processed with resin technology, yet knowingly sold it to various
6 entities in the United States’ honey market, including in California.

7 d. On September 1, 2019, Sunland received 122 drums of “Vietnamese
8 Amber Honey” from Nhieu Loc Company Limited, a True Source Certified exporter
9 based in Ho Chi Minh City, Vietnam (bill of lading number: PRFTPSPDX980060)
10 (True Source Certified Number C0251262-TSH). The port of discharge was in Seattle,
11 Washington. On or about September 2015 (and annually thereafter), True Source
12 certified and recertified Nhieu Loc Company Limited as True Source Certified,
13 knowing its “honey” is fake or adulterated, and having caused NSF and Intertek to
14 engage in sham auditing and testing to obscure the adulteration. Sunland knew Nhieu
15 Loc Company Limited’s “honey” contained extraneous syrups and/or was processed
16 with resin technology, yet knowingly sold it to various entities in the United States’
17 honey market, including in California.

18 e. On August 29, 2019, Sunland received 63 drums of “Vietnamese Honey”
19 from Hoang Tri Honey Bee Company Limited, a True Source Certified exporter based
20 in Đồng Nai, Vietnam (bill of lading number: PRFTPFSCHS970870) (True Source
21 Certified Number C0238189-TSH). The port of discharge was in Charleston, South
22 Carolina. On or about March 2014 (and annually thereafter), True Source certified and
23 recertified Hoang Tri Honey Bee Company Limited as True Source Certified, knowing
24 its “honey” is fake or adulterated, and having caused NSF and Intertek to engage in
25 sham auditing and testing to obscure the adulteration. Sunland knew Hoang Tri Honey
26 Bee Company Limited’s “honey” contained extraneous syrups and/or was processed
27 with resin technology, yet knowingly sold it to various entities in the United States’
28 honey market, including in California.

1 f. The above represent just a sample of Sunland and the Certifier
2 Defendants' systematic acts of mail and/or wire fraud during the Class Period.

3 122. Lamex has also routinely and knowingly purchased fake honey from True
4 Source Certified exporters for resale in the United States' honey market. Examples of these
5 fraudulent transactions include:

6 a. On June 22, 2020, Lamex received 248 drums of "Vietnamese
7 Conventional Light Amber Honey" from Daklak Honeybee Joint Stock Company, a
8 True Source Certified exporter based in Đăk Lăk, Vietnam (bill of lading number:
9 PRFTPSPDX050590) (True Source Certified Number C0228527-TSH). The port of
10 discharge was in Portland, Oregon. On or about September 2014 (and annually
11 thereafter), True Source certified and recertified Daklak Honeybee Joint Stock
12 Company as True Source Certified, knowing its "honey" is fake or adulterated, and
13 having caused NSF and Intertek to engage in sham auditing and testing to obscure the
14 adulteration. Lamex further understood Daklak Honeybee Joint Stock Company's
15 "honey" contained extraneous syrups and/or was processed with resin technology, yet
16 knowingly sold it to various entities in the United States' honey market, including in
17 California.

18 b. On June 12, 2020, Lamex received 128 drums of "Natural Honey" from
19 Ambrosia Natural Products India Pvt. Ltd., a True Source Certified exporter based in
20 New Delhi, India (bill of lading number: MOCO390710000806) (True Source
21 Certified Number C0372215-TSH). The port of discharge was in Newark, New Jersey.
22 On or about January 2018 (and annually thereafter), True Source certified and
23 recertified Ambrosia Natural Products India Pvt. Ltd. as True Source Certified,
24 knowing its "honey" is fake or adulterated, and having caused NSF and Intertek to
25 engage in sham auditing and testing to obscure the adulteration. Lamex knew Ambrosia
26 Natural Products India Pvt. Ltd.'s "honey" contained extraneous syrups and/or was
27 processed with resin technology, yet knowingly sold it to various entities in the United
28 States' honey market, including in California.

c. On June 6, 2020, Lamex received 122 drums of “Vietnamese Conventional Light Amber Honey” from Southern Honey Bee Co., LTD., a True Source Certified exporter based in Ho Chi Minh City, Vietnam (bill of lading number: PRFTPFSCHI050370) (True Source Certified Number C0238188-TSH). The port of discharge was in Tacoma, Washington. On or about January 2013 (and annually thereafter), True Source certified and recertified Southern Honey Bee Co., LTD. as True Source Certified, knowing its “honey” is fake or adulterated, and having caused NSF and Intertek to engage in sham auditing and testing to obscure the adulteration. Lamex knew Southern Honey Bee Co., LTD.’s “honey” contained extraneous syrups and/or was processed with resin technology, yet knowingly sold it to various entities in the United States’ honey market, including in California.

d. On June 4, 2020, Lamex received 124 drums of “Natural Honey” from Kejriwal Bee Care India (Pvt.) Ltd., a True Source Certified exporter based in New Delhi, India (bill of lading number: SYXOSSPLD0301744) (True Source Certified Number C0238179-TSH). The port of discharge was in Seattle, Washington. On or about September 2011 (and annually thereafter), True Source certified and recertified Kejriwal Bee Care India (Pvt.) Ltd. as True Source Certified, knowing its “honey” to is fake or adulterated, and having caused NSF and Intertek to engage in sham auditing and testing to obscure the adulteration. Lamex knew Kejriwal Bee Care India (Pvt.) Ltd.’s “honey” contained extraneous syrups and/or was processed with resin technology, yet knowingly sold it to various entities in the United States’ honey market, including in California.

e. On May 28, 2020, Lamex received 186 drums of “Vietnamese Light Amber Honey” from Nhieu Loc Company Limited, a True Source Certified exporter based in Ho Chi Minh City, Vietnam (bill of lading number: PRFTPFSCHI050210) (True Source Certified Number C0251262-TSH). The port of discharge was in Tacoma, Washington. On or about September 2015 (and annually thereafter), True Source certified and recertified Nhieu Loc Company Limited as True Source Certified,

1 knowing its “honey” is fake or adulterated and having caused NSF and Intertek to
2 engage in sham auditing and testing to obscure the adulteration. Lamex knew Nhieu
3 Loc Company Limited’s “honey” contained extraneous syrups and/or was processed
4 with resin technology, yet knowingly sold it to various entities in the United States’
5 honey market, including in California.

6 f. On May 31, 2020, Lamex received 62 drums of Conventional Light
7 Amber Honey from Shakti Apifoods Pvt Ltd, a True Source Certified exporter based
8 in Amir Nagar, India (bill of lading number: FORLDEL19201377). The port of
9 discharge was in Newark, New Jersey. True Source certified and recertified Shakti
10 Apifoods Pvt Ltd as True Source Certified, knowing its “honey” is fake or adulterated
11 and having caused NSF and Intertek to engage in sham auditing and testing to obscure
12 the adulteration. Lamex knew Shakti Apifoods Pvt Ltd’s “honey” contained extraneous
13 syrups and/or was processed with resin technology, yet knowingly sold it to various
14 entities in the United States’ honey market, including in California.

15 123. The above represents just a sample of Lamex and the Certifier Defendants’
16 systematic acts of mail and/or wire fraud during the Class Period.

17 124. Odem has also routinely and knowingly purchased fake honey from True Source
18 Certified exporters for sale in the United States’ honey market. Examples of these fraudulent
19 transactions include:

20 a. On December 29, 2020, Odem received 252 drums of “Natural Honey”
21 from Ambrosia Natural Products India Pvt Ltd, a True Source certified exporter based
22 in New Delhi, India (bill of lading number: MOSJ390710002155) (True Source
23 Certified Number C0372215-TSH). The port of discharge was in Norfolk, Virginia.
24 On or about January 2018 (and annually thereafter), True Source certified and
25 recertified Ambrosia Natural Products India Pvt Ltd as True Source Certified, knowing
26 its “honey” is fake or adulterated, and having caused NSF and Intertek to engage in
27 sham auditing and testing to obscure the adulteration. Odem knew Ambrosia Natural
28 Products India Pvt Ltd’s “honey” contained extraneous syrups and/or was processed

1 with resin technology, yet knowingly sold it to various entities in the United States’
2 honey market, including in California.

3 b. On December 29, 2020, Odem received 124 drums of “homogenized
4 natural” “honey” from Brij Honey Pvt Ltd, a True Source certified exporter based in
5 Bharatpur, India (bill of lading number: MOSJHAR3322021) (True Source Certified
6 Number C0238183-TSH). The port of discharge was in Philadelphia, Pennsylvania.
7 On or about December 2017 (and annually thereafter), True Source certified and
8 recertified Brij Honey Pvt Ltd as True Source Certified, knowing its “honey” is fake
9 or adulterated, and having caused NSF and Intertek to engage in sham auditing and
10 testing to obscure the adulteration. Odem knew Brij Honey Pvt Ltd’s “honey”
11 contained extraneous syrups and/or was processed with resin technology, yet
12 knowingly sold it to various entities in the United States’ honey market, including in
13 California.

14 c. On October 18, 2020, Odem received 128 drums of “Vietnamese Honey”
15 from Hoang Tri Honey Bee Co Ltd, a True Source certified exporter based in Biên Hòa
16 city, Vietnam (bill of lading number: CTCGCTCHOU090390) (True Source Certified
17 Number C0238189-TSH). The port of discharge was in Houston, Texas. On or about
18 March 2014 (and annually thereafter), True Source certified and recertified Hoang Tri
19 Honey Bee Co Ltd as True Source Certified, knowing its “honey” is fake or adulterated,
20 and having caused NSF and Intertek to engage in sham auditing and testing to obscure
21 the adulteration. Odem knew Hoang Tri Honey Bee Co Ltd’s “honey” contained
22 extraneous syrups and/or was processed with resin technology, yet knowingly sold it
23 to various entities in the United States’ honey market, including in California.

24 d. On August 19, 2020, Odem received 66 drums of “Bees Honey from
25 Vietnam” from Huong Rung Co Ltd, a True Source certified exporter based in Long
26 Khanh, Vietnam (bill of lading number: CTCGCTCPHI070140) (True Source
27 Certified Number C0327372-TSH). The port of discharge was in Philadelphia,
28 Pennsylvania. On or about March 2017 (and annually thereafter), True Source certified

1 and recertified Huong Rung Co Ltd as True Source Certified, knowing its “honey” is
2 fake or adulterated and having caused NSF and Intertek to engage in sham auditing
3 and testing to obscure the adulteration. Odem knew Huong Rung Co Ltd’s “honey”
4 contained extraneous syrups and/or was processed with resin technology, yet
5 knowingly sold it to various entities in the United States’ honey market, including in
6 California.

7 e. On July 16, 2020, Odem received 66 drums of “Bees Honey” from Bao
8 Nguyen Honeybee Co Ltd, a True Source certified exporter based in Tân Uyên,
9 Vietnam (bill of lading number: CTCGCTCPHI060100) (True Source Certified
10 Number C0288565-TSH). The port of discharge was in Norfolk, Virginia. On or about
11 February 2017 (and annually thereafter), True Source certified and recertified Bao
12 Nguyen Honeybee Co Ltd as True Source Certified, knowing its “honey” is fake or
13 adulterated and having caused NSF and Intertek to engage in sham auditing and testing
14 to obscure the adulteration. Odem knew Bao Nguyen Honeybee Co Ltd’s “honey” to
15 contained extraneous syrups and/or was processed with resin technology, yet
16 knowingly sold it to various entities in the United States’ honey market, including in
17 California.

18 125. The above represent just a sample of Odem and the Certifier Defendants'
19 systematic acts of mail and/or wire fraud during the Class Period.

20 **D. The Packer Defendants' Scheme to Defraud**

21 126. The Packer Defendants are some of the largest honey packers in North America
22 and sell honey directly to retailers, in direct competition with Plaintiffs. Each of the Packer
23 Defendants is True Source Certified.⁵⁰

24 127. The Packer Defendants hold themselves out as honest dealers in the honey
25 industry, committed to ensuring the authenticity of their honey.

28

⁵⁰ <http://www.tshmember.com/packers.php>

1 128. Barkman states that all of its honey “is True Source Certified and fully traceable
2 back to its origin. For us, it’s a badge of honor. For you, it’s peace of mind.”⁵¹

3 129. Dutch Gold states that it “is True Source Certified to protect our customers and
4 consumers by ensuring to our utmost ability that honey is ethically sourced in a transparent
5 and traceable manner from known beekeepers and brokers; that honey moves through the
6 supply chain in full accordance with U.S. law and without circumvention of trade duties; that
7 it carries truthful labeling as to its source, has been tested to ensure quality, and has been
8 handled in a safe and secure manner from hive to table.”⁵²

9 130. Despite these claims, the Packer Defendants have engaged in a fraudulent
10 scheme of knowingly and intentionally purchasing fake honey from unscrupulous importers,
11 and blending, processing, and repackaging such fake honey with honey produced by Plaintiffs
12 and other domestic commercial beekeepers, for sale in the retail market.

13 131. In September 2020, Dutch Gold “honey” from Vietnam and India was tested by
14 an accredited laboratory and found to contain extraneous non-honey syrups, meaning it is
15 adulterated, fake honey.

16 132. Barkman’s Busy Bee brand “honey” from India has also been tested by an
17 accredited laboratory and found to be adulterated with extraneous non-honey syrups.

18 133. Moreover, and as previously discussed herein, Barkman sold honey it purchased
19 from Odem that was found to be adulterated with added sugar syrups to purchasers in the
20 United States during the Class Period.

21 134. Barkman’s Director of Quality and Honey Procurement Eric Wenger has
22 solicited independent food testing laboratories to provide false results for its “honey”
23 products.

24 135. As alleged above, each of the Packer Defendants’ have manufactured honey
25 products that have tested positive for adulteration. Despite this, the Packer Defendants have

27 ⁵¹ <http://www.barkmanhoney.com/about/our-promise>

28 ⁵² <https://dutchgoldhoney.com/about-us/#certifications>

1 used and continue to use the True Source Certified Seal to falsify the authenticity of their
2 fake honey.

3 136. The Packer Defendants knowingly, intentionally, and repeatedly conspired with
4 the Certifier Defendants and the Importer Defendants to introduce fake honey into the United
5 States' honey market.

6 137. On or about October 2011, and annually thereafter, True Source certified and
7 recertified Barkman as True Source Certified, knowing its "honey" is fake or adulterated and
8 having caused NSF and Intertek to engage in sham auditing and testing to obscure the
9 adulteration.

10 138. On or about November 2011, and annually thereafter, True Source certified and
11 recertified Dutch Gold as True Source Certified, knowing its "honey" is fake or adulterated
12 and having caused NSF and Intertek to engage in sham auditing and testing to obscure the
13 adulteration.

14 139. In furtherance of Defendants' conspiracies and schemes, the Packer Defendants
15 engaged in repetitious and systematic mail fraud and interstate and foreign wire fraud in
16 violation of 18 U.S.C. §§ 1341 and 1343 by using or causing the use of private or commercial
17 interstate carriers and wires in interstate and foreign commerce to repeatedly, systematically,
18 and distribute fake honey to retailers and other businesses throughout the United States.

19 140. Specifically, to hide their malfeasance and further the scheme, the Packer
20 Defendants created, maintained, and transmitted through the mail and wires fake and
21 fraudulent bills of lading, invoices, packing lists, and other papers to fraudulently represent
22 fake honey as genuine. This includes at least bills of lading, invoices, delivery orders,
23 warehouse receipts, EA-IRMS Reports, HRMS reports, and NMR reports.

24 **V. DEFENDANTS' SCHEME HARMED THE MARKET AND INJURED
25 PLAINTIFFS AND OTHER DOMESTIC COMMERCIAL BEEKEEPERS**

26 141. By conspiring to import and sell fake honey as genuine honey, Defendants have
27 caused great harm to the market for honey, and to Plaintiffs and other domestic commercial
28 beekeepers ("Class Members").

1 142. Defendants caused fake honey to enter the United States' honey market at
2 substantially lower prices than the fair market price of the genuine honey produced and sold
3 by Plaintiffs and other Class Members, putting them in a position where they could not
4 compete with Defendants.

5 143. Because the demand for genuine honey is higher than the available supply, had
6 Defendants not engaged in the acts of fraud alleged herein, packers and retailers would have
7 had to purchase genuine honey from honest beekeepers, including Plaintiffs and other Class
8 Members, in order to meet consumer demand without resorting to buying fake honey.

9 144. It was a foreseeable and natural consequence of Defendants' fraudulent conduct
10 and scheme to obtain greater sales for themselves that Plaintiffs and other Class Members
11 would sell less genuine honey or be forced to sell their genuine honey at prices significantly
12 below what a fair market price would be absent Defendants' wrongful and unlawful conduct.

13 145. As a direct and proximate result of Defendants' wrongful and unlawful conduct,
14 Plaintiffs and other Class Members lost genuine honey sales to Defendants or had to sell their
15 genuine honey at deeply-discounted prices, eliminating or severely impeding their ability to
16 make a profit. Additionally, Valor Honey has been unable to adequately sustain its benevolent
17 and therapeutic training mission.

18 146. Plaintiffs and other Class Members thus suffered immediate injury to their
19 businesses and property in the form of, *inter alia*, lost sales and profits.

20 147. For example, Plaintiff Bullfrog Bees is unable to get a fair price for the genuine
21 honey it produces and cannot even break even, *i.e.*, sell its honey for its cost of production.
22 As a result, Bullfrog Bees has been forced to sell its genuine honey only to local retailers,
23 leaving it without the ability to grow the number of hives it maintains, increase the amount
24 of honey it produces, or otherwise grow its business.

25 148. Similarly, despite its long-term budget and business planning being based on its
26 expectation of obtaining a fair market rate for its genuine honey, Valor Honey is unable to
27 compete with the low price at which Defendants sell their fake honey, and, as a result of
28 Defendants' wrongful and unlawful conduct, cannot even break even when selling its honey.

1 This is because nearly every mass retailer in the United States, including Costco, Walmart,
2 Trader Joes, and Albertson's, is unwilling to pay a fair price for Valor Honey's honey and
3 has refused to do business with Valor Honey because the price of its genuine honey is too
4 high compared to the price of Defendants' fake honey.

5 149. Moreover, Adey Honey Farms—the largest honey production farm in the
6 country—has been forced to sell its genuine honey at a substantially lower-than-break-even
7 price, and often cannot sell its honey *at all*. Given that genuine honey production has
8 decreased, and consumer demand increased, Adey should have no problem selling its honey,
9 and for a fair price. Yet, Adey is currently storing over *6 million pounds* of honey it has been
10 unable to sell because Defendants and other potential customers will not buy it when they can
11 instead purchase for a lesser price fake honey that is True Source Certified.

12 150. There is a direct causal relationship between Defendants' fraudulent importing,
13 false certification as genuine, and selling of fake honey, and their attaining a superior
14 competitive position in the market vis-à-vis Plaintiffs and other Class Members, with the
15 latter suffering the above-described economic damages.

CLASS ALLEGATIONS

17 151. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23 on
18 behalf of a Nationwide Class of all U.S. domestic commercial beekeepers—and a California
19 Subclass of all California commercial beekeepers—that, on or after March 29, 2017 (the
20 “Class Period”), produced or sold honey in the United States (the “Class”).

21 152. Subject to additional information obtained through further investigation and
22 discovery, the foregoing definition of the Class and Class Period may be expanded or
23 narrowed by amendment to the Complaint or in a motion for class certification, including
24 through the use of additional Subclasses if appropriate.

25 153. Class Members were uniformly impacted by Defendants' misconduct.
26 Accordingly, this Complaint is suitable for class-wide resolution.

27 154. This action is brought and properly may be maintained as a class action under
28 the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4) and 23(b)(1), (b)(2) or (b)(3),

1 and satisfies the requirements thereof. If appropriate, Plaintiffs may also seek certification of
2 specific issues pursuant to Fed. R. Civ. P. 23(b)(4).

3 **I. RULE 23(A) REQUIREMENTS**

4 155. The Class satisfies the numerosity, commonality, typicality, adequacy,
5 predominance, and superiority requirements of Federal Rule of Civil Procedure 23(a) and
6 (b)(3).

7 156. **Numerosity:** The proposed Class is so numerous that joinder of all members
8 would be impracticable. While the exact number of Class Members is unknown at this time,
9 Plaintiff believes the Class is comprised of at least several thousand domestic commercial
10 beekeepers.

11 157. **Typicality:** Plaintiffs' claims are typical of the claims of other Class Members'
12 claims. Plaintiffs and other Class Members sustained and continue to sustain damages arising
13 out of Defendants' conduct in violation of the laws alleged herein.

14 158. **Adequacy of Representation:** Plaintiffs are adequate representatives of the
15 Class and will fairly and adequately protect the interests of the Class. Plaintiffs are committed
16 to the vigorous prosecution of this action and have retained competent counsel, experienced
17 in litigation of this nature, to represent them and the Class. There are no conflicts between
18 Plaintiffs and the unnamed Class Members. Plaintiffs anticipate no difficulty in the
19 management of this litigation as a class action.

20 159. **Commonality:** There are numerous and substantial questions of law and fact
21 common to all Class Members sufficient to satisfy Rule 23(a), which control this litigation
22 and predominate over any individual issues for purposes of Rule 23(b)(3). Included within
23 these common questions are the following:

24 a. Whether the Importer Defendants imported fake honey into the United
25 States for purchase by businesses and other persons in the United States;

26 b. Whether the Packer Defendants engaged in the repackaging and
27 distribution of fake honey for sale in the retail market;

28 c. Whether the Certifier Defendants falsely certified as genuine the fake

1 honey sold by the Importer Defendants and Packer Defendants;

2 d. Whether Defendants, by their conduct, conspired to violate or actually
3 violated RICO;

4 e. Whether Defendants, by their conduct, violated the Sherman Act;

5 f. Whether Defendants, by their conduct, violated the Cartwright Act;

6 g. Whether Defendants, by their conduct, violated the California Unfair
7 Competition Law;

8 h. Whether Defendants' conduct caused injury to the business or property of
9 Plaintiffs and other Class Members;

10 i. The appropriate measure of damages sustained by Plaintiffs and other
11 Class Members, or the amount of restitution due to them; and

12 j. The appropriate injunctive relief.

13 **II. RULE 23(B)(2) REQUIREMENTS**

14 160. Defendants have acted on grounds generally applicable to the entire Class,
15 thereby making final injunctive relief and corresponding declaratory relief appropriate with
16 respect to the Class as a whole. The prosecution of separate actions by individual Class
17 Members would create the risk of inconsistent or varying adjudications with respect to
18 individual members of the Class that would establish incompatible standards of conduct for
19 Defendants.

20 161. Injunctive relief is necessary to prevent further fraudulent and unfair business
21 practices by Defendants. Money alone will not afford adequate and complete relief, and
22 injunctive relief is necessary to restrain Defendants from continuing to import, certify as
23 genuine, and sell fake honey in the United States' honey market.

24 **III. RULE 23(B)(3) REQUIREMENTS**

25 162. **Predominance:** As set forth herein, common issues of fact and law predominate
26 because Plaintiffs' claims are based on a common course of conduct by Defendants. Whether
27 Defendants' conduct violates RICO, the Sherman Act, the Cartwright Act, and the UCL are
28 questions common to all Class Members and the predominating issues in this litigation, and

Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

163. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

a. Given the size of the claims of individual Class Members, as well as the resources of Defendants, few Class Members, if any, could afford to seek legal redress individually for the wrongs alleged herein;

b. This action will permit an orderly and expeditious administration of the Class Members' claims, will foster economies of time, effort, and expense, and will ensure uniformity of decisions;

c. Any interest of Class Members in individually controlling the prosecution of separate actions is not practical, creates the potential for inconsistent or contradictory judgments and would create a burden on the court system;

d. Without a class action, Class Members will continue to suffer damages, Defendants' violations of law will proceed without remedy, and Defendants will continue to reap and retain the substantial proceeds derived from their wrongful and unlawful conduct;

e. This action presents no difficulties that will impede its management by the Court as a class action; and

f. Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

CAUSES OF ACTION

I. FIRST CAUSE OF ACTION - VIOLATIONS OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C. §§ 1962(C)

164. Plaintiffs incorporate by reference the allegations of the preceding paragraphs, as though fully set forth herein.

165. Plaintiffs and the Class bring this claim against Defendants for relief pursuant to

1 18 U.S.C. §§ 1962(c) & 1964(c) of RICO.

2 166. Plaintiffs and other Class Members are “persons” as that term is defined in 18
 3 U.S.C. § 1961(3), who were injured in their business or property as a result of Defendants’
 4 wrongful conduct.

5 167. Defendants are “persons” within the meaning of 18 U.S.C. § 1961(3), because
 6 they are entities capable of holding legal or beneficial interest in property.

7 168. RICO defines an enterprise as “any individual, partnership, corporation,
 8 association, or other legal entity, and any union or group of individuals associated in fact
 9 although not a legal entity.” 18 U.S.C. § 1961(4). An association-in-fact enterprise generally
 10 has three structural features, including: (a) a purpose; (b) relationships among those
 11 associated with the enterprise; and (c) longevity sufficient to permit those associates to pursue
 12 the enterprise’s purpose. *See Boyle v. United States*, 556 U.S. 938, 946 (2009).

13 169. Section 1962(c) makes it unlawful “for any person employed by or associated
 14 with any enterprise engaged in, or the activities of which affect, interstate or foreign
 15 commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s
 16 affairs through a pattern of racketeering activity or collection of unlawful debt.” 18 U.S.C.
 17 §1962(c).

18 170. Section 1964(c) provides that “[a]ny person injured in his business or property
 19 by reason of a violation of section 1962 of this chapter may sue therefore . . . and shall recover
 20 threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s
 21 fee.” 18 U.S.C. § 1964(c).

22 171. As alleged below and throughout this Complaint, Defendants orchestrated a
 23 scheme to deprive Plaintiffs and the Class of money or property by flooding the United States’
 24 honey market with fake honey, which they pass off as genuine. Defendants conducted their
 25 business through an association-in-fact enterprise in violation of § 1962(c) by a pattern of
 26 racketeering activity, including mail and wire fraud, for the purpose of enabling Defendants
 27 to enjoy massive profits and prevent domestic commercial beekeepers, like Plaintiffs and
 28 other Class Members, from being able to survive, let alone compete.

1 172. Defendants' endeavor had the desired effect. Defendants secured unlawful
2 profits during the pendency of the enterprise, while Plaintiffs and other Class Members
3 suffered injury to their business and property in the form of, *inter alia*, lost sales and lost
4 profits.

5 **A. The Certifier-Importer Enterprise**

6 173. The Certifier Defendants (True Source, Intertek, and NSF) and Importer
7 Defendants (Sunland, Lamex, and Odem) formed an association-in-fact enterprise, referred
8 to as the "Certifier-Importer Enterprise."

9 174. The Certifier-Importer Enterprise included: (a) the Importer Defendants, their
10 subsidiaries, employees, and agents; and (b) the Certifier Defendants, their subsidiaries,
11 employees, and agents.

12 175. The Certifier-Importer Enterprise was formed for the purpose of: (a) suppressing
13 the price of genuine honey in the domestic honey market; (b) diverting sales, revenue, and
14 profits to themselves that otherwise would have been made by Plaintiffs and other Class
15 Members; (c) eliminating Plaintiffs and other Class Members as competitors by selling fake
16 honey at substantially lower prices than the prices at which Plaintiffs and other Class
17 Members could sell genuine honey profitably; and (d) generally undermining the credibility
18 and economics of the domestic honey market to their financial benefit and to the financial
19 detriment of Plaintiffs and other Class Members.

20 176. Each member of the Certifier-Importer Enterprise was aware of the enterprise's
21 purpose and conduct, and was a knowing, willing, and active participant in that conduct. Each
22 member of the enterprise reaped substantial profits from the conduct of the enterprise.

23 177. Each member of the Certifier-Importer Enterprise acquired, maintained control
24 of, was associated with, and conducted or participated in the conduct of the enterprise's
25 affairs. But the enterprise and each member thereof (a) had an existence separate and distinct
26 from each of its members; (b) was separate and distinct from the pattern of racketeering in
27 which the Defendants engaged; and (c) was an ongoing and continuing organization
28 consisting of legal entities, including the Defendants, along with other individuals and

1 entities, including unknown third parties.

2 178. The patterns of racketeering activity alleged herein are separate and distinct from
3 each other. Likewise, the Certifier Defendants and Importer Defendants are distinct from the
4 Certifier-Importer Enterprise, and they have a separate existence from the enterprise,
5 including distinct legal statuses, different offices and roles, individual personhood, reporting
6 requirements, and financial statements.

7 179. The members of the Certifier-Importer Enterprise are systematically linked
8 through continually-coordinated activities, financial ties, and contractual business
9 arrangements, and the Certifier-Importer Enterprise is ongoing and continuing.

10 180. Neither the Certifier Defendants nor the Importer Defendants could have
11 accomplished the purpose of the Certifier-Importer Enterprise without the assistance of the
12 other, and each of the Defendants profited financially from the scheme.

13 181. The members of the Certifier-Importer Enterprise functioned as a continuing
14 unit for the purposes of implementing the scheme, and each agreed to take actions to hide the
15 existence of the scheme, as well as the controlling association-in-fact enterprise from others.

16 182. The Certifier-Importer Enterprise engaged in and affected interstate commerce
17 by, *inter alia*, distributing and selling fake honey, or providing fraudulent testing and auditing
18 to assist in the distribution and sale of fake honey for purchase by businesses and consumers
19 in the United States.

20 183. As a result of the Certifier-Importer Enterprise, Plaintiffs and other Class
21 Members have been forced to sell their genuine honey at a loss, to the extent they can sell it
22 at all, and in some instances have been unable to sell their honey to large retailers, which are
23 unwilling to pay a fair price for their genuine honey because they can purchase for far less
24 fake honey that is True Source Certified as genuine.

25 **1. Conduct of the Enterprise**

26 184. The Certifier Defendants and Importer Defendants exerted control over the
27 Certifier-Importer Enterprise and participated in the operation and management of its affairs,
28 directly and indirectly.

1 185. Certifier Defendants participated in the operation and management of the
2 enterprise by: (a) in the case of Intertek, knowingly and intentionally providing fraudulent
3 testing to obscure the adulteration of honey by the Importer Defendants; (b) in the case of
4 NSF, knowingly and intentionally providing fraudulent audits and audit reports to obscure
5 the adulteration of honey by the Importer Defendants; and (c) in the case of True Source,
6 knowingly and intentionally allowing the Importer Defendants to use the True Source
7 Certified Seal to falsely represent their fake honey as genuine honey.

8 186. The Importer Defendants participated in the operation and management of the
9 enterprise by distributing and selling fake honey for purchase by businesses and consumers
10 in the United States.

11 **2. Pattern of Racketeering Activity of the Enterprise**

12 187. The Certifier Defendants and Importer Defendants carried out their scheme
13 through a pattern of racketeering activity that caused the use of private or commercial
14 interstate carriers or the wires in interstate and foreign commerce to repeatedly,
15 systematically, and fraudulently distribute fake honey to businesses and persons throughout
16 the United States.

17 188. Defendants' predicate acts of racketeering activity, *see* 18 U.S.C. § 1961(1)(B),
18 include, but are not limited to:

19 a. **Mail Fraud:** The Certifier Defendants and Importer Defendants violated
20 18 U.S.C. § 1341 by sending and receiving, or causing to be sent and received,
21 materials via commercial interstate carriers, for the purpose of executing their unlawful
22 and fraudulent scheme to profit from the sale of fake honey.

23 b. **Wire Fraud:** The Certifier Defendants and Importer Defendants violated
24 18 U.S.C. § 1343 by transmitting and receiving, or by causing to be transmitted and
25 received, materials by wire for the purpose of executing their unlawful and fraudulent
26 scheme to profit from the sale of fake honey.

27 189. The Certifier-Importer Enterprise's pattern of racketeering likely involved
28 thousands of separate instances in which commercial interstate carriers and interstate wire

1 facilities were knowingly and intentionally used to further the enterprise's pattern of
2 racketeering, including mail and wire fraud, as Defendants' business is conducted through
3 the creation of numerous records that are necessary to perpetrate the fraud.

4 190. Many of the precise dates of Defendants' fraudulent use of interstate carriers or
5 interstate wire facilities have been deliberately hidden and cannot be alleged without access
6 to Defendants' books and records. Plaintiffs have, however, described the types of predicate
7 acts of mail and wire fraud that occurred. They include fraudulent purchase orders, bills of
8 lading, invoices, packing lists, certificates of analysis, audit reports, and other papers that
9 have been used to fraudulently declare the Importers' fake honey to be genuine, as well as
10 the use of the True Source Certified Seal to falsely represent their fake honey to be genuine.

11 191. The Certifier Defendants and Importer Defendants knew and intended that
12 businesses and other persons would rely on their material misrepresentations and would be
13 misled into purchasing the Importer Defendants' fake honey believing it to be genuine honey.

14 192. The Certifier Defendants and Importer Defendants knew and intended that the
15 introduction of fake honey into the United States' honey market would: (a) suppress the price
16 of genuine honey in the domestic honey market; (b) divert sales, revenue, and profits to
17 themselves that otherwise would have been made by Plaintiffs and other Class Members; (c)
18 eliminate Plaintiffs and other Class Members as competitors by selling fake honey at
19 substantially lower prices than the prices at which Plaintiffs and other Class Members could
20 sell genuine honey profitably; (d) undermine the credibility and economics of the domestic
21 honey market to their financial benefit and to the financial detriment of Plaintiffs and other
22 Class Members.

23 193. Each of these fraudulent mailings and interstate wire transmissions constitutes
24 "racketeering activity" within the meaning of 18 U.S.C. § 1961(1)(B). Collectively, these
25 violations constitute a "pattern of racketeering activity," within the meaning of 18 U.S.C. §
26 1961(5), through which the Certifier Defendants and Importer Defendants intended to and
27 did defraud purchasers of the Importer Defendants' fake honey, to the financial detriment of
28 Plaintiffs and other Class Members.

1 **3. Damages**

2 194. Defendants' pattern of racketeering activity directly and proximately caused
3 Plaintiffs and other Class Members injury in their business and property because Plaintiffs
4 and other Class Members lost honey sales and profits they would have otherwise made absent
5 Defendants' wrongful and unlawful conduct.

6 195. Defendants continue to harm domestic commercial beekeepers such as Plaintiffs
7 and other Class Members by continuing their international scheme of distributing and selling
8 fake honey, misrepresented as genuine, to businesses and other persons throughout the United
9 States.

10 196. Plaintiffs seek all legal relief as allowed by law, including *inter alia*, actual
11 damages and treble damages, attorney's fees, all costs and expenses of suit, and pre- and post-
12 judgment interest pursuant to 18 U.S.C. § 1964(c).

13 **B. The Certifier-Packer Enterprise**

14 197. The Packer Defendants (Barkman and Dutch Gold) and the Certifier Defendants
15 (True Source, Intertek, and NSF) formed an association-in-fact enterprise, referred to as the
16 "Certifier-Packer Enterprise."

17 198. The Certifier-Packer Enterprise included: (a) the Packer Defendants, their
18 subsidiaries, employees, and agents; and (b) the Certifier Defendants, their subsidiaries,
19 employees, and agents.

20 199. The Certifier-Packer Enterprise was formed for the purpose of: (a) suppressing
21 the price of genuine honey in the domestic honey market; (b) diverting sales, revenue, and
22 profits to themselves that otherwise would have been made by Plaintiffs and other Class
23 Members; (c) eliminating Plaintiffs and other Class Members as competitors by selling the
24 fake honey at substantially lower prices than the prices at which Plaintiffs and other Class
25 Members could sell genuine honey profitably; and (d) generally undermining the credibility
26 and economics of the domestic genuine honey market to their financial benefit and the
27 financial detriment of Plaintiffs and other Class Members.

28 200. Each member of the Certifier-Packer Enterprise was aware of the enterprise's

1 purpose and conduct, and was a knowing, willing, and active participant in that conduct. Each
2 member of the enterprise reaped substantial profits from the conduct of the enterprise.

3 201. Each member of the Certifier-Packer Enterprise acquired, maintained control of,
4 was associated with, and conducted or participated in the conduct of the enterprise's affairs.
5 But the enterprise, and each member thereof: (a) had an existence separate and distinct from
6 each of its members; (b) was separate and distinct from the pattern of racketeering in which
7 the Defendants engaged; and (c) was an ongoing and continuing organization consisting of
8 legal entities, including the Defendants, along with other individuals and entities, including
9 unknown third parties.

10 202. The patterns of racketeering activity alleged herein are separate and distinct from
11 each other. Likewise, the Packer Defendants and the Certifier Defendants are distinct from
12 the Certifier-Packer Enterprise, and they have a separate existence from the enterprise,
13 including distinct legal statuses, different offices and roles, individual personhood, reporting
14 requirements, and financial statements.

15 203. The members of the Certifier-Packer Enterprise are systematically linked
16 through continually-coordinated activities, financial ties, and contractual business
17 arrangements, and the Certifier-Packer Enterprise is ongoing and continuing.

18 204. Neither the Packer Defendants nor the Certifier Defendants could have
19 accomplished the purpose of the Certifier-Packer Enterprise without the assistance of the
20 other and profited financially from the scheme.

21 205. The members of the Certifier-Packer Enterprise functioned as a continuing unit
22 for the purposes of implementing the scheme, and each agreed to take actions to hide the
23 existence of the scheme, as well as the controlling association-in-fact enterprise from others.

24 206. The Certifier-Packer Enterprise engaged in and affected interstate commerce by,
25 *inter alia*, distributing and selling fake honey mislabeled as genuine for purchase by
26 businesses and consumers in the United States.

27 207. As a result of the Certifier-Packer Enterprise, Plaintiffs and other Class Members
28 have been forced to sell their genuine honey at a loss, to the extent they can sell it all, and in

1 some instances have been unable to sell their honey to large retailers, which are unwilling to
2 pay a fair price for their genuine honey because they can purchase for far less fake honey that
3 is True Source Certified as genuine.

4 **1. Conduct of the Enterprise**

5 208. The Packer Defendants and the Certifier Defendants exerted control over the
6 Certifier-Packer Enterprise and participated in the operation and management of its affairs,
7 directly and indirectly.

8 209. The Packer Defendants participated in the operation and management of the
9 enterprise by knowingly and intentionally distributing and selling fake honey, represented to
10 be genuine, for purchase by retailers and other businesses in the United States.

11 210. The Certifier Defendants participated in the operation and management of the
12 enterprise by knowingly and intentionally certifying the Packer Defendants' fake honey as
13 genuine honey or providing fraudulent testing or auditing to obscure that the Packer
14 Defendants' fake honey is adulterated.

15 **2. Pattern of Racketeering Activity of the Enterprise**

16 211. The Packer Defendants and the Certifier Defendants carried out their scheme
17 through a pattern of racketeering activity that caused the use of private or commercial
18 interstate carriers and/or the wires in interstate and foreign commerce to repeatedly,
19 systematically, and fraudulently distribute fake honey to businesses and persons throughout
20 the United States.

21 212. Defendants' predicate acts of racketeering activity (18 U.S.C. § 1961(1)(B))
22 include, but are not limited to:

23 a. **Mail Fraud:** The Packer Defendants and the Certifier Defendants
24 violated 18 U.S.C. § 1341 by sending and receiving, or causing to be sent and received,
25 materials via commercial interstate carriers, for the purpose of executing the unlawful
26 and fraudulent scheme to profit from the sale of fake honey.

27 b. **Wire Fraud:** The Packer Defendants and the Certifier Defendants
28 violated 18 U.S.C. § 1343 by transmitting and receiving, or by causing to be transmitted

1 and received, materials by wire for the purpose of executing the unlawful and
2 fraudulent scheme to profit from the sale of fake honey.

3 213. The Certifier-Packer Enterprise's pattern of racketeering likely involved
4 thousands of separate instances in which commercial interstate carriers or interstate wire
5 facilities were knowingly and intentionally used to further the enterprise's pattern of
6 racketeering, including mail and wire fraud, as Defendants' business is conducted through
7 the creation of numerous records that are necessary to perpetrate the fraud.

8 214. Many of the precise dates of Defendants' fraudulent use of interstate carriers or
9 interstate wire facilities have been deliberately hidden and cannot be alleged without access
10 to Defendants' books and records.

11 215. Plaintiffs have, however, described the types of predicate acts of mail and wire
12 fraud that occurred. They include the Packer Defendants' fraudulent purchase orders, bills of
13 lading, invoices, packing lists, certificates of analysis, audit reports, and other papers that
14 have been used to fraudulently certify and declare the Packer Defendants' fake honey to be
15 genuine.

16 216. The Packer Defendants and the Certifier Defendants knew, and intended that,
17 businesses and other persons would rely on the material misrepresentations made by them
18 and would be misled into purchasing the Packer Defendants' fake honey products, falsely
19 believing them to be genuine honey.

20 217. The Packer Defendants and the Certifier Defendants knew and intended that
21 their introduction of fake honey into the United States' honey market would (a) suppress the
22 price of genuine honey in the domestic honey market; (b) divert sales, revenue, and profits to
23 themselves that otherwise would have been made by Plaintiffs and other Class Members; (c)
24 eliminate Plaintiffs and other Class Members as competitors by selling the fake honey at
25 substantially lower prices than the prices at which Plaintiffs and other Class Members could
26 sell genuine honey profitably; and (d) undermine the credibility and economics of the
27 domestic genuine honey market to their financial benefit and to the financial detriment of
28 Plaintiffs and other Class Members.

1 218. Each of these fraudulent mailings and interstate wire transmissions constitutes
 2 “racketeering activity” within the meaning of 18 U.S.C. § 1961(1)(B). Collectively, these
 3 violations constitute a “pattern of racketeering activity,” within the meaning of 18 U.S.C. §
 4 1961(5), through which the Importer Defendants and the Certifier Defendants intended to and
 5 did defraud purchasers of the Packer Defendant’s fake honey, to the financial detriment of
 6 Plaintiffs and other Class Members.

7 **3. Damages**

8 219. Defendants’ pattern of racketeering activity directly and proximately caused
 9 Plaintiffs’ and other Class Members’ injury in their business and property because Plaintiffs
 10 and other Class Members lost honey sales and profits they would have otherwise made absent
 11 Defendants’ conduct.

12 220. Defendants continue to harm domestic commercial beekeepers such as Plaintiffs
 13 and other Class Members by continuing their international scheme of distributing and selling
 14 fake honey to businesses and other persons throughout the United States.

15 221. Plaintiffs seek all legal relief as allowed by law, including *inter alia*, actual
 16 damages and treble damages, attorney’s fees, all costs and expenses of suit, and pre- and post-
 17 judgment interest pursuant to 18 U.S.C. § 1964(c).

18 **C. The Importer-Packer Enterprise**

19 222. The Importer Defendants (Sunland, Lamex, and Odem) and Packer Defendants
 20 (Barkman and Dutch Gold) formed an association-in-fact enterprise, referred to as the
 21 “Importer-Packer Enterprise.”

22 223. The Importer-Packer Enterprise included: (a) the Packer Defendants, their
 23 subsidiaries, employees, and agents; and (b) the Importer Defendants, their subsidiaries,
 24 employees, and agents.

25 224. The Importer-Packer Enterprise was formed for the purpose of: (a) suppressing
 26 the price of genuine honey in the domestic honey market; (b) diverting sales, revenue, and
 27 profits to themselves that otherwise would have been made by Plaintiffs and the Class; (c)
 28 eliminating Plaintiffs and the Class as competitors by selling the fake honey at substantially

1 lower prices than the prices at which Plaintiffs and other Class Members could sell genuine
2 honey profitably; and (d) generally undermining the credibility and economics of the
3 domestic honey market to their financial benefit and the financial detriment of Plaintiffs and
4 other Class Members.

5 225. Each member of the Importer-Packer Enterprise was aware of the enterprise's
6 purpose and conduct, and was a knowing, willing, and active participant in that conduct. Each
7 member of the enterprise reaped substantial profits from the conduct of the enterprise.

8 226. Each member of the Importer-Packer Enterprise acquired, maintained control of,
9 was associated with, and conducted or participated in the conduct of the enterprise's affairs.
10 But the enterprise, and each member thereof: (a) had an existence separate and distinct from
11 each of its members; (b) was separate and distinct from the pattern of racketeering in which
12 the Defendants engaged; and (c) was an ongoing and continuing organization consisting of
13 legal entities, including the Defendants, along with other individuals and entities, including
14 unknown third parties.

15 227. The patterns of racketeering activity alleged herein are separate and distinct from
16 each other. Likewise, the Importer Defendants and the Packer Defendants are distinct from
17 the Importer-Packer Enterprise, and they have a separate existence from the enterprise,
18 including distinct legal statuses, different offices and roles, individual personhood, reporting
19 requirements, and financial statements.

20 228. The members of the Importer-Packer Enterprise are systematically linked
21 through continually-coordinated activities, financial ties, and contractual business
22 arrangements, and the Importer-Packer Enterprise is ongoing and continuing.

23 229. Neither the Importer Defendants nor the Packer Defendants could have
24 accomplished the purpose of the Importer-Packer Enterprise without the assistance of the
25 other and profited financially from the scheme.

26 230. The members of the Importer-Packer Enterprise functioned as a continuing unit
27 for the purposes of implementing the scheme, and each agreed to take actions to hide the
28 existence of the scheme, as well as the controlling association-in-fact enterprise from others.

1 231. The Importer-Packer Enterprise engaged in and affected interstate commerce by,
2 *inter alia*, distributing and selling fake honey mislabeled as genuine for purchase by
3 businesses and consumers in the United States.

4 232. As a result of the Importer-Packer Enterprise, Plaintiffs and other Class
5 Members have been forced to sell their genuine honey at a loss, to the extent they can sell it
6 at all, and in some instances have been unable to sell their honey to large retailers, which are
7 unwilling to pay a fair price for their genuine honey because they can purchase for far less
8 fake honey that is True Source Certified as genuine.

9 **1. Conduct of the Enterprise**

10 233. The Importer Defendants and the Packer Defendants exerted control over the
11 Importer-Packer Enterprise and participated in the operation and management of its affairs,
12 directly and indirectly.

13 234. The Importer Defendants participated in the operation and management of the
14 enterprise by knowingly and intentionally importing and selling fake honey for purchase by
15 businesses and consumers in the United States.

16 235. The Packer Defendants participated in the operation and management of the
17 enterprise by knowingly and intentionally purchasing from the Importer Defendants,
18 distributing, and selling fake honey, misrepresented as genuine, for purchase by retailers and
19 other businesses in the United States.

20 **2. Pattern of Racketeering Activity of the Enterprise**

21 236. The Importer Defendants and the Packer Defendants carried out their scheme
22 through a pattern of racketeering activity that caused the use of private or commercial
23 interstate carriers and/or the wires in interstate and foreign commerce to repeatedly,
24 systematically, and fraudulently distribute fake honey to businesses and persons throughout
25 the United States.

26 237. Defendants' predicate acts of racketeering activity (18 U.S.C. § 1961(1)(B))
27 include, but are not limited to:

28 a. **Mail Fraud:** The Importer Defendants and the Packer Defendants

1 violated 18 U.S.C. § 1341 by sending and receiving, or causing to be sent and received,
 2 materials via commercial interstate carriers, for the purpose of executing the unlawful
 3 and fraudulent scheme to profit from the sale of fake honey.

4 b. **Wire Fraud:** The Importer Defendants and the Packer Defendants
 5 violated 18 U.S.C. § 1343 by transmitting and receiving, or by causing to be transmitted
 6 and received, materials by wire for the purpose of executing the unlawful and
 7 fraudulent scheme to profit from the sale of fake honey.

8 238. The Importer-Packer Enterprise's pattern of racketeering likely involved
 9 thousands of separate instances in which commercial interstate carriers or interstate wire
 10 facilities were knowingly and intentionally used to further the enterprise's pattern of
 11 racketeering, including mail and wire fraud, as Defendants' business is conducted through
 12 the creation of numerous records that are necessary to perpetrate the fraud.

13 239. Many of the precise dates of Defendants' fraudulent use of interstate carriers or
 14 interstate wire facilities have been deliberately hidden and cannot be alleged without access
 15 to Defendants' books and records.

16 240. Plaintiffs have, however, described the types of predicate acts of mail and/or
 17 wire fraud that occurred. They include the Defendants' fraudulent purchase orders, bills of
 18 lading, invoices, packing lists, certificates of analysis, audit reports, and other papers that
 19 have been used to falsely and fraudulently declare their fake honey to be genuine.

20 241. The Importer Defendants and the Packer Defendants knew and intended that
 21 businesses and other persons would rely on their material misrepresentations and would be
 22 misled into purchasing the Defendants' fake honey believing it to be genuine honey.

23 242. The Importer Defendants and the Packer Defendants knew and intended that
 24 their introduction of fake honey into the United States' honey market would (a) suppress the
 25 price of genuine honey in the domestic honey market; (b) divert sales, revenue, and profits to
 26 themselves that otherwise would have been made by Plaintiffs and other Class Members; (c)
 27 eliminate Plaintiffs and other Class Members as competitors by selling the fake honey at
 28 substantially lower prices than the prices at which Plaintiffs and other Class Members could

1 sell genuine honey profitably; and (d) undermine the credibility and economics of the
2 domestic genuine honey market to their financial benefit and to the financial detriment of
3 Plaintiffs and other Class Members.

4 243. Each of these fraudulent mailings and interstate wire transmissions constitutes
5 “racketeering activity” within the meaning of 18 U.S.C. § 1961(1)(B). Collectively, these
6 violations constitute a “pattern of racketeering activity,” within the meaning of 18 U.S.C. §
7 1961(5), through which the Importer Defendants and the Packer Defendants intended to and
8 did defraud purchasers of the Defendants’ fake honey, to the financial detriment of Plaintiffs
9 and other Class Members.

10 **3. Damages**

11 244. Defendants’ pattern of racketeering activity directly and proximately caused
12 Plaintiffs’ and other Class Members’ injury in their business and property because Plaintiffs
13 and other Class Members lost honey sales and profits they would have otherwise made absent
14 Defendants’ conduct.

15 245. Defendants continue to harm domestic commercial beekeepers such as Plaintiffs
16 and other Class Members by continuing their international scheme of distributing and selling
17 fake honey to businesses and other persons throughout the United States.

18 246. Plaintiffs seek all legal relief as allowed by law, including *inter alia*, actual
19 damages and treble damages, attorney’s fees, all costs and expenses of suit, and pre- and post-
20 judgment interest pursuant to 18 U.S.C. § 1964(c).

21 **II. SECOND CAUSE OF ACTION - CONSPIRACY TO VIOLATE THE**
22 **RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18**
23 **U.S.C. § 1962(D)**

24 247. Plaintiffs incorporate by reference the allegations of the preceding paragraphs,
25 as though fully set forth herein.

26 248. Defendants have unlawfully, knowingly, and willfully combined, conspired,
27 confederated, and agreed together to violate 18 U.S.C. § 1962(c) as described above, in
28 violation of 18 U.S.C. § 1962(d).

1 249. Defendants knew they were engaged in a conspiracy to commit the predicate
2 acts, and they knew that the predicate acts were part of such racketeering activity, and the
3 participation and agreement of each of them was necessary to allow the commission of this
4 pattern of racketeering activity. This conduct constitutes a conspiracy to violate 18 U.S.C. §
5 1962(c), in violation of 18 U.S.C. § 1962(d).

6 250. Defendants agreed to conduct or participate, directly or indirectly, in the
7 conduct, management, or operation of the enterprises described above through a pattern of
8 racketeering activity in violation of 18 U.S.C. § 1962(c).

9 251. Each of the Defendants knew about and agreed to facilitate the scheme to injure
10 Plaintiffs and other Class Members in their business and property through the wrongful and
11 unlawful acts identified herein. It was part of the conspiracy that Defendants would commit
12 a pattern of racketeering activity in the conduct of the affairs of the enterprises described
13 above, including the acts of racketeering set forth herein.

14 252. As a direct and proximate result of Defendants' conspiracy, the acts of
15 racketeering activity of the enterprises described above, the overt acts taken in furtherance of
16 that conspiracy, and Defendants' violations of 18 U.S.C. § 1962(d), Plaintiffs and other Class
17 Members have been injured in their business and property, as set forth above.

18 253. Plaintiffs seek all legal relief as allowed by law, including *inter alia*, actual
19 damages and treble damages, attorney's fees, all costs and expenses of suit, and pre- and post-
20 judgment interest pursuant to 18 U.S.C. § 1964(c).

21 **III. THIRD CAUSE OF ACTION - VIOLATION OF THE SHERMAN ANTITRUST
22 ACT, 15 U.S.C. § 1**

23 254. Plaintiffs incorporate and reallege, as though fully set forth herein, the
24 allegations set forth in the preceding paragraphs of this Complaint.

25 255. The relevant market is the United States honey market, including products
26 purporting to be genuine honey (for example, corn syrup labeled and sold as if it were genuine
27 honey), but excluding non-honey sweeteners that are **not** being passed off as honey (for
28 example, corn syrup labeled and sold as corn syrup).

1 256. Defendants have substantial market power in the United States honey market.

2 Each has a dominant share in the market:

3 a. Sunland has been “the leading US importer of honey” “[f]or more than 40
4 years.”⁵³

5 b. Lamex has “been active in the honey industry for the last decade and ha[s]
6 grown to become a major trader in the world honey market.” It “buy[s] approximately
7 30,000 tonnes pa of bulk honey from all major historical honey producing countries
8 around the world.”⁵⁴ Lamex is thus “a major trader of bulk honey in the U.S.”⁵⁵

9 c. Odem is “a leader in bulk raw honey imports in Northern America,”⁵⁶ and
10 “the cement binding honey producers to honey processors by building an effective
11 supply chain all around the world.”⁵⁷

12 d. Barkman is one of the “key market players” in the honey industry
13 according to a report on the Honey Food Market 2020.⁵⁸

14 e. Dutch Gold is “the largest independent honey packaging business in the
15 country.”⁵⁹

16 f. True Source “has more than 750 members including beekeepers, honey
17 importers, exporters and packers,” and “[a]n estimated 40 percent of honey sold in the
18 United States . . . is True Source Certified.”⁶⁰

19

20 ⁵³ <http://www.sunlandhoney.com>

21 ⁵⁴ <http://www.lamexfoods.eu/index.php/honey/honey>

22 ⁵⁵ <https://honey.com/honey-locator/profile/lamex-foods-inc>

23 ⁵⁶ <https://www.odeminternational.com/the-company>

24 ⁵⁷ <https://www.odeminternational.com/the-markets>

25 ⁵⁸ <https://tinyurl.com/3275ex3h> (also listing Lamex as a top player in the honey industry).

26 ⁵⁹ <https://www.dutchgoldhoney.com/about-us>

27 ⁶⁰ <https://truesourcehoney.com/participating-companies>

1 g. NSF performs auditing services on behalf of True Source and thus
2 performs auditing services for “40 percent of honey sold in the United States.”⁶¹

3 h. Intertek performs testing services on behalf of True Source and thus
4 performs testing services for “40 percent of honey sold in the United States.”⁶²

5 257. During the Class Period and continuing today, Defendants exercised this power
6 to flood the honey market with mislabeled and adulterated fake honey, and to depress prices
7 for genuine honey. Defendants’ combined efforts have made it impossible for domestic
8 producers of genuine honey, like Plaintiffs and other Class Members, to compete.

9 258. To bring honey from farm to market, beekeepers rely on a limited number of
10 packers to undertake the labor and expense of processing, packaging, and marketing their
11 genuine honey. Moreover, there is not enough domestic genuine honey supply to meet
12 demand in the United States honey market, such that reliance on imported honey is necessary.
13 Defendants use these circumstances to manipulate the market by certifying and importing
14 fake honey, depriving Plaintiffs and other Class Members of free and open competition, and
15 depressing the price of genuine, bee-made honey.

16 259. Defendants’ anticompetitive conduct has flooded the United States honey
17 market with fake honey, thereby creating a false increase in supply, and has suppressed the
18 market price for genuine, bee-made honey. Plaintiffs and other Class Members have thus
19 been deprived of free and open competition.

20 260. True Source openly acknowledges that fake honey “threatens the U.S. honey
21 industry *by undercutting fair market prices* and damaging honey’s reputation for quality and
22 safety.”⁶³

23 261. By reason of these violations of the antitrust laws, Plaintiffs and other Class
24 Members have sustained injury to their businesses or property, having been paid lower prices

25
26 ⁶¹ *Id.*

27 ⁶² *Id.*

28 ⁶³ <https://truesourcehoney.com> (emphasis added)

1 for their genuine honey than they would have otherwise been paid, and sold less genuine
2 honey than they would otherwise have sold absent Defendants' illegal contract, combination,
3 or conspiracy, and as a result, have suffered damages.

4 262. This is an antitrust injury of the type that the antitrust laws were meant to punish
5 and prevent.

6 263. Beginning at least as early as July 2010, and continuing through the present,
7 Defendants and their co-conspirators entered into a continuing agreement, understanding, and
8 conspiracy in restraint of trade to artificially depress prices for genuine honey in the United
9 States, in violation of Section I of the Sherman Antitrust Act, 15 U.S.C. § 1.

10 264. In formulating and carrying out the agreement, understanding, and conspiracy,
11 Defendants and their co-conspirators did those things that they combined and conspired to do
12 to depress the price of genuine honey. The combination and conspiracy has had the following
13 effects, among others:

14 a. Price competition in the purchase of genuine honey has been restrained,
15 suppressed, and/or eliminated in the United States;

16 b. Prices for genuine honey purchased by Defendants and their co-
17 conspirators have been depressed, maintained, and stabilized at artificially low,
18 noncompetitive levels throughout the United States; and

19 c. Those who sold their genuine honey directly to Defendants and their co-
20 conspirators have been deprived of the benefits of free and open competition.

21 265. Plaintiffs and other Class Members have been injured and will continue to be
22 injured in their businesses and property by being paid less for genuine honey that they sell
23 than they otherwise would have been paid, and by selling less genuine honey than they
24 otherwise would have sold, absent the combination and conspiracy by Defendants and their
25 co-conspirators.

26 266. Plaintiffs and members other Class Members seek and are entitled to damages
27 and an injunction against Defendants preventing and restraining the violations alleged herein.
28

**IV. FOURTH CAUSE OF ACTION - VIOLATIONS OF THE CALIFORNIA
CARTWRIGHT ACT, CAL. BUS. & PROF. CODE § 16720**

267. Plaintiff Bullfrog Bees incorporates by reference the allegations of the preceding paragraphs, as though fully set forth herein.

268. As described herein, Defendants and their co-conspirators entered into and engaged in a continuing unlawful trust, combining their capital, skills, and acts for the purpose of creating and carrying out restrictions of trade and commerce.

269. As a direct and proximate result of Defendants' unlawful conduct, Bullfrog Bees and other California Subclass Members were injured in their business and property in that they were unable to sell their genuine honey at fair market prices.

270. As a result of Defendants' violation of section 16720, Bullfrog Bees brings this claim pursuant to Cal. Bus. & Prof. Code § 16750(c) seeking all relief as allowed by law, including *inter alia*, actual damages and treble damages, attorney's fees, all costs and expenses of suit, and pre- and post-judgment interest.

V. FIFTH CAUSE OF ACTION, VIOLATIONS OF THE UNFAIR COMPETITION LAW, CAL. BUS. & PROF. CODE §§ 17200 ET SEQ.

271. Plaintiff Bullfrog Bees incorporates by reference the allegations of the preceding paragraphs, as though fully set forth herein.

272. Bullfrog Bees brings this claim for relief under the “unfair,” “fraudulent,” and “unlawful” prongs of California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200 *et seq.*, on behalf of itself and other California Subclass Members, all of whom were subject to Defendants’ above-described unlawful conduct.

273. Bullfrog Bees has standing to pursue this claim as it has suffered injury in fact and has lost money or property as a result of Defendants' conduct described herein. Specifically, Defendants distributed and sold their fake honey at substantially lower market prices than the genuine honey produced and sold by Bullfrog Bees, placing Bullfrog Bees in positions where it could not compete. As a result of Defendants' conduct, Bullfrog Bees has lost honey sales and profits it otherwise would have made absent Defendants' conduct.

1 **A. Defendants' "Unfair" Conduct**

2 274. Defendants' business practices, as alleged herein, are unfair because: (a) the
3 injury to the consumer is substantial; (b) the injury is not outweighed by any countervailing
4 benefits to consumers or competition; and (c) consumers could not reasonably have avoided
5 the injury because Defendants misled the consuming public through their own
6 misrepresentations and omissions.

7 275. Defendants' business practices are also unfair because their conduct described
8 herein is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers
9 and the gravity of the harm to consumers is not outweighed by the utility of Defendants'
10 conduct.

11 276. Defendants' business practices are also unfair because they undermine public
12 policy, which is tethered to specific constitutional and statutory provisions, including at least
13 RICO, the Sherman Antitrust Act, and the Cartwright Act.

14 **B. Defendants' "Unlawful" Conduct**

15 277. Defendants' conduct was "unlawful" within the meaning of the UCL because,
16 as alleged herein, it violated RICO, the Sherman Antitrust Act, and the Cartwright Act. In
17 addition, Defendants' conduct in labeling fake honey with True Source Certified Seal
18 indicating that the product is genuine violates the Federal Food, Drug, and Cosmetic Act,
19 which renders misbranded any food whose "labeling is in any particular," 21 U.S.C. § 343(a).

20 **C. The Class was Injured by Defendants' UCL Violations**

21 278. Bullfrog Bees and other California Subclass Members suffered injury in fact and
22 lost money or property as a result of Defendants' actions as set forth herein. By engaging in
23 the unfair, fraudulent, and unlawful conduct described above, Defendants have: (a)
24 suppressed the price of genuine honey in the domestic honey market; (b) diverted sales,
25 revenue, and profits to themselves that otherwise would have been made by Bullfrog Bees
26 and other California Subclass Members; (c) eliminated Bullfrog Bees and other California
27 Subclass Members as competitors by selling the fake honey at substantially lower prices than
28 the prices at which they could sell genuine honey profitably; and (d) undermined the

1 credibility and economics of the domestic genuine honey market to their financial benefit and
2 Bullfrog Bees' and other California Subclass Members' financial detriment.

3 279. Defendants' wrongful business practices constitute a continuing course of
4 conduct of unfair competition since Defendants continue to distribute and sell fake honey as
5 genuine to businesses and other persons throughout the United States.

6 280. Bullfrog Bees' legal remedies are inadequate because, pursuant to section 17203
7 of the UCL, Bullfrog Bees seeks restitution, which may be measured differently than
8 damages, and an Order of this Court enjoining Defendants from engaging in the unfair and
9 unlawful business practices alleged herein in connection with the distribution and sale of fake
10 honey to businesses and other persons throughout the United States.

11 **VI. SIXTH CAUSE OF ACTION - UNJUST ENRICHMENT**

12 281. Plaintiffs incorporate by reference the allegations of the preceding paragraphs,
13 as though fully set forth herein.

14 282. By their wrongful acts described herein, Defendants were unjustly enriched at
15 the expense of Plaintiffs and other Class Members.

16 283. It would be inequitable for Defendants to retain the profits, benefits, and other
17 compensation obtained from their wrongful conduct.

18 284. Plaintiffs, on behalf of themselves and other Class Members, seek restitution
19 from Defendants, and an order of this Court proportionally disgorging all profits, benefits,
20 and other compensation obtained by Defendants from their wrongful conduct.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs respectfully request that the Court enter Judgment in their
23 favor and against Defendants, including relief as follows:

24 A. An Order certifying the proposed Class, appointing Plaintiffs and their
25 Counsel to represent the Class, and directing Defendants to pay the cost of Class
26 Notice;

27 B. An Order enjoining Defendants from pursuing the policies, acts, and
28 practices complained of herein;

C. An Order declaring Defendants to have conspired to violate and in fact violated the Racketeering Influenced Corrupt Practices Act, the Sherman Antitrust Act, the California Cartwright Act, and the California Unfair Competition Law, and declaring that Defendants were unjustly enriched;

D. Compensatory damages and restitution for economic loss and out-of-pocket costs, treble damages, and punitive and exemplary damages allowed under applicable law;

E. Pre- and post-judgment interest on any amounts awarded;

F. Attorneys' fees and costs; and

G. Such other or further relief as the Court may deem appropriate, just, and equitable.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury of all issues in this action so triable.

Dated: March 28, 2022

By: */s/ Melanie Persinger*
Melanie Persinger

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